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Senate

The Senate met at 1:01 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Lord God, our help in ages past and our hope for years to come, we thank You for Your mercy and blessing toward the United States throughout our history. Hear us as we seek Your continued guidance today. May the women and men of this Senate be so sensitive to Your grand vision for our Nation that they will be a conscience to our citizens in calling them back to You. Give these leaders soundness of judgment, courage in their decisions, and a united zeal to serve You together. You have warned us that a kingdom divided against itself cannot stand. Help us to affirm that those things on which we agree are of greater value than those things on which we differ. As we work together, deepen our understanding of one another's needs and enlarge our respect of one another's opinions. Make us one in the common cause of justice, righteousness, and truth. We all commit ourselves to the work of government for the honor and glory of Your Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON KYL, a Senator from the State of Arizona, led the Pledge of Allegiance, as follows:

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

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will immediately begin consideration of H.R. 4578, the Interior appropriations bill. I see that the chairman of the subcommittee is here and ready to proceed. Opening statements will be made and amendments are expected to be offered during today's session.

At 3:30 today, however, it will be my intention to turn to the executive nomination of Madelyn Creedon to be Deputy Administrator of the National Security Administration. This was included in an earlier agreement, that we would complete debate and have a vote on this nomination prior to Wednesday of this week. I thought it was best we do it today. The vote will occur on her confirmation at 5:30 p.m. today.

During the Senate's consideration of the Interior bill, those Senators who have amendments should work with the bill managers in an effort to complete action on the bill as soon as possible. I commend the Appropriations Subcommittee on the Interior for the work they have done on this legislation. Many areas could have been added that would have been controversial and would have made it difficult to complete the bill. They were not included. I hope, therefore, that in a relatively short period of time we can complete action on this very important Interior appropriations bill.

Members should be on notice that it will be the leadership's intent to debate amendments to the DOD authorization bill during the evening sessions this week. That was agreed to before we went out for the Fourth of July recess. There was a unanimous consent agreement entered into that limits Senators to relevant amendments to the Department of Defense authorization bill. I believe all amendments had to be filed by the close of business that day, which was Friday of the week before last. Any amendment votes ordered during the DOD authorization bill will be postponed to occur the next morning. We are hoping we can proceed under that agreement so that Monday night, Tuesday night, and Wednesday night, if necessary, we can go to the Department of Defense authorization bill around 6:30 or 7 o'clock each night so we can complete action on this very important bill.

I emphasize again that this Department of Defense authorization bill has been pending in one form or another before the Senate for quite some time. A number of nongermane amendments were offered and voted on that are connected to this bill. They have been dealt with in one way or another now. We are ready to complete action on the underlying Defense authorization bill itself. It has a lot of very important items for the future of our military. Included among those are significant improvements in the health care provisions for our military men and women and their families and for our retirees and their families. This is important legislation. Hopefully, we can complete it under this procedure of taking up amendments each night and having votes at the beginning of the session the next morning.

As a remainder, cloture was filed on the motion to proceed to the death tax legislation prior to the July recess. Pursuant to rule XXI, that cloture vote will occur 1 hour after the Senate convenes tomorrow, unless an agreement is reached where we don't have to have a recorded vote on the motion to proceed, that we can pass that by voice vote and move straight to the bill itself. We haven't worked that out yet. That is always a possibility. Otherwise, though, we will have that vote 1 hour after we come in on Tuesday morning.

The Senate is expected to return to the reconciliation bill, which has a statutory time limitation of 20 hours, the latter part of this week. Of course, that is the reconciliation bill for the marriage penalty tax relief. Votes will occur each day of the Senate's session, with late nights and possibly a late Friday or Saturday session in order to complete the reconciliation bill.

I thank my colleagues for their attention. I emphasize that point again. It is our hope to go to the reconciliation bill on the marriage penalty tax Thursday, and complete action on that bill before the end of the session this

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

week. Since we could take up to 20 hours under the reconciliation provisions—and of course amendments at the end of that process don't count against the 20 hours—we could very easily go into the afternoon on Friday, Friday night, or Saturday. I hope Members are aware of that and prepare their schedule accordingly.

Since we only have 3 weeks before we recess for the August period for the national conventions, I think it is safe to say we will be having votes throughout the day, and we will have votes on Monday and Fridays for the 3 weeks we have remaining. We have a lot of work to do. I appreciate the support and cooperation of all Senators.

I hope Members had a good Fourth of July recess period in the Nation's Capital or back home with constituents. We are prepared to work hard and get a lot of the people's business done.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. KYL). Under the previous order, the leadership time is reserved.

The Senator from Nevada.

Mr. REID. Mr. President, while the leader is on the floor, I state for the minority, we are here; we are ready to work; we understand the tremendous load of work that we have. We only have about 35 legislative days until we adjourn this Congress.

In addition to the appropriations bills, there are other pieces of legislation we can move along. The leader has indicated a couple of things he is interested in accomplishing this week. We are happy to work on those. It is also important that we don't lose sight of the fact we have a number of matters in conference. We have to complete the conference committee reports so we can come back and vote on those. We have issues that are out there, not the least of which are the Patients' Bill of Rights, prescription drugs, gun safety, a minimum wage increase for families around America, and education. I hope we also can focus on some of these issues during the next 35 legislative days.

The minority is here; we are ready to move. I think we have worked very hard on these appropriations bills in the last 6 weeks. I think the last week we were able to get a lot done, including the emergency supplemental, which is so important. We would also direct the leader's attention to the fact that there are other matters originally contained in the supplemental we need to complete in the immediate future.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of H.R. 4578, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4578), making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with an amendment to strike all after the enacting clause and insert the part printed in italic, as follows:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $693,133,000, to remain available until expended, of which $3,898,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150); and of which not to exceed $1,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–6a(i)); and of which $2,500,000 shall be available in fiscal year 2001 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for cost-shared projects supporting conservation of Bureau lands and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred; in addition, $34,328,000 for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $693,133,000, and $2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities: Provided, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors.

WILDLAND FIRE MANAGEMENT

For necessary expenses for fire preparedness, suppression operations, emergency rehabilitation and hazardous fuels reduction by the Department of the Interior, $292,679,000, to remain available until expended, of which not to exceed $9,300,000 shall be for the renovation or construction of fire facilities: Provided, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: Provided further, That unobligated balances of amounts previously appropriated to the ''Fire Protection'' and ''Emergency Department of the Interior Firefighting Fund'' may be transferred and merged with this appropriation: Provided further, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: Provided further, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation.

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), $10,000,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account to be available until expended without further appropriation: Provided further, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $15,360,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–6907), $145,000,000, of which not to exceed $400,000 shall be available for administrative expenses: Provided, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than $100.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, $10,600,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $104,267,000, to remain available until expended: Provided, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEMS HEALTH AND RECOVERY FUND

(REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, and monitoring salvage timber sales and forest ecosystem health and recovery activities such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181–1 et seq., and Public

Law 103–66) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,000,000, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: Provided, That notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: Provided further, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: Provided, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, maintenance of the herd of longhorned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, $758,442,000, to remain available until September 30, 2002, except as otherwise provided herein, of which not less than $2,000,000 shall be provided to local governments in southern California for planning associated with the Natural Communities Conservation Planning (NCCP) program and shall remain available until expended: Provided, That not less than $1,000,000 for high priority projects which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended: Provided further, That not to exceed $6,355,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)): Provided further, That of the amount available for law enforcement, up to $400,000 to remain available until expended, may at the discretion of the Secretary, be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on his certificate: Provided further, That of the amount provided for environmental contaminants, up to $1,000,000 may remain available until expended for contaminant sample analyses.

CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $54,803,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $46,100,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended, $26,925,000, to be derived from the Cooperative Endangered Species Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $10,000,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, $16,500,000, to remain available until expended.

WILDLIFE CONSERVATION AND APPRECIATION FUND

For necessary expenses of the Wildlife Conservation and Appreciation Fund, $797,000, to remain available until expended.

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4261–4266), and the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301–5306), $2,500,000, to remain available until expended: Provided, That funds made available under this Act and Public Law 105–277 for rhinoceros, tiger, and Asian elephant conservation programs are exempt from any sanctions imposed against any country under section 102 of the Arms Export Control Act (22 U.S.C. 2799aa–1).

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 79 passenger motor vehicles, of which 72 are for replacement only (including 41 for police-type use); repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management and investigation of fish and wildlife resources: Provided, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: Provided further, That the Service may accept donated aircraft as replacements for existing aircraft: Provided further, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in Senate Report 105–56.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by 16 U.S.C. 1706, $1,443,795,000, of which $9,227,000 for research, planning and interagency coordination in support of land acquisition for Everglades restoration shall remain available until expended, and of which not to exceed $7,000,000, to remain available until expended, is to be derived from the special fee account established pursuant to title V, section 5201 of Public Law 100–203.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise

provided for, $58,209,000, of which $2,000,000 shall be available to carry out the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.).

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333), $44,347,000, to be derived from the Historic Preservation Fund, to remain available until September 30, 2002, of which $7,177,000 pursuant to section 507 of Public Law 104–333 shall remain available until expended.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $207,079,000, to remain available until expended: Provided, That $1,000,000 for the Great Falls Historic District, $650,000 for Lake Champlain National Historic Landmarks, and $365,000 for the U.S. Grant Boyhood Home National Historic Landmark shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 2001 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, $87,140,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $40,000,000 is for the State assistance program including $1,000,000 to administer the State assistance program, and of which $10,000,000 may be for State grants for land acquisition in the State of Florida: Provided, That the Secretary may provide Federal assistance to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary by the Secretary to improve and restore the hydrological function of the Everglades watershed: Provided further, That funds provided under this heading for assistance to the State of Florida to acquire lands within the Everglades watershed are contingent upon new matching non-Federal funds by the State and shall be subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades: Provided further, That none of the funds provided for the State Assistance program may be used to establish a contingency fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 340 passenger motor vehicles, of which 273 shall be for replacement only, including not to exceed 319 for police-type use, 12 buses, and 9 ambulances: Provided, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided further, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $847,596,000, of which $62,879,000 shall be available only for cooperation with States or municipalities for water resources investigations; and of which $16,400,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $1,525,000 shall remain available until expended for ongoing development of a mineral and geologic data base; and of which $32,322,000 shall be available until September 30, 2002 for the operation and maintenance of facilities and deferred maintenance; and of which $147,773,000 shall be available until September 30, 2002 for the biological research activity and the operation of the Cooperative Research Units: Provided, That none of these funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase of not to exceed 53 passenger motor vehicles, of which 48 are for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: Provided, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $134,010,000, of which $86,257,000, shall be available for royalty management activities; and an amount not to exceed $107,410,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993: Provided, That to the extent $107,410,000 in additions to receipts are not realized from the sources of receipts stated above, the amount needed to reach $107,410,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: Provided further, That $3,000,000 for computer acquisitions shall remain available until September 30, 2002: Provided further, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721(b) and (d): Provided further, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: Provided further, That notwithstanding any other provision of law, $15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,118,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; $100,801,000: Provided, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 2001 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation

Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, $201,438,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to $10,000,000, to be derived from the Federal Expenses Share of the Fund, shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: Provided, That grants to minimum program States will be $1,600,000 per State in fiscal year 2001: Provided further, That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 percent shall be used for emergency reclamation projects in any one State and funds for federally administered emergency reclamation projects under this proviso shall not exceed $11,000,000: Provided further, That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 percent limitation per State and may be used without fiscal year limitation for emergency projects: Provided further, That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That funds made available under title IV of Public Law 95–87 may be used for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: Provided further, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: Provided further, That the State of Maryland may set aside the greater of $1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects: Provided further, That from the funds provided herein, in addition to the amount granted to the State of Kentucky under Sections 402(g)(1) and 402(g)(5) of the Surface Mining Control and Reclamation Act, an additional $1,000,000 shall be made available to the State of Kentucky to demonstrate reforestation techniques on abandoned coal mine sites.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, $1,704,620,000, to remain available until September 30, 2002 except as otherwise provided herein, of which not to exceed $93,225,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed $125,485,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2001, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; and up to $5,000,000 shall be for the Indian Self-Determination Fund which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts or cooperative agreements with the Bureau under such Act; and of which not to exceed $412,556,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2001, and shall remain available until September 30, 2002; and of which not to exceed $54,694,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: Provided, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed $43,160,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with the operation of Bureau-funded schools: Provided further, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2002, may be transferred during fiscal year 2003 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: Provided further, That any such unobligated balances not so transferred shall expire on September 30, 2003.

CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87–483, $341,004,000, to remain available until expended: Provided, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: Provided further, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: Provided further, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: Provided further, That for fiscal year 2001, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: Provided further, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: Provided further, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: Provided further, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): Provided further, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $35,276,000, to remain available until expended; of which $25,225,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 101–618 and 102–575, and for implementation of other enacted water rights settlements; of which $8,000,000 shall be available for Tribal compact administration, economic development and future water supplies facilities under Public Law 106–163; and of which $1,877,000 shall be available pursuant to Public Laws 99–264, 100–383, 100–580 and 103–402.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans, $4,500,000, as authorized by the Indian Financing Act of 1974, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $59,682,000.

In addition, for administrative expenses to carry out the guaranteed loan programs, $488,000.

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 229 passenger motor vehicles, of which not to exceed 187 shall be for replacement only.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations, pooled overhead general administration (except facilities operations and maintenance), or provided to implement the recommendations of the National Academy of Public Administration's August 1999 report shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under

this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro-rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act''). Not later than June 15, 2001, the Secretary of the Interior shall evaluate the effectiveness of Bureau-funded schools sharing facilities with charter schools in the manner described in the preceding sentence and prepare and submit a report on the finding of that evaluation to the Committees on Appropriations of the Senate and of the House.

DEPARTMENT OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $68,471,000, of which: (1) $64,076,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $4,395,000 shall be available for salaries and expenses of the Office of Insular Affairs: Provided, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: Provided further, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: Provided further, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): Provided further, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $20,545,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $64,019,000, of which not to exceed $8,500 may be for official reception and representation expenses and of which up to $1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $40,196,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $27,846,000.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $82,628,000, to remain available until expended: Provided, That funds for trust management improvements may be transferred, as needed, to the Bureau of Indian Affairs ''Operation of Indian Programs'' account and to the Departmental Management ''Salaries and Expenses'' account: Provided further, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 2001, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: Provided further, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: Provided further, That notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of $1.00 or less: Provided further, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder.

INDIAN LAND CONSOLIDATION

For implementation of a program for consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands by direct expenditure or cooperative agreement, $10,000,000, to remain available until expended and which may be transferred to the Bureau of Indian Affairs and Departmental Management of which not to exceed $500,000 shall be available for administrative expenses: Provided, That the Secretary may enter into a cooperative agreement, which shall not be subject to Public Law 93–638, as amended, with a tribe having jurisdiction over the reservation to implement the program to acquire fractional interests on behalf of such tribe: Provided further, That the Secretary may develop a reservation-wide system for establishing the fair market value of various types of lands and improvements to govern the amounts offered for acquisition of fractional interests: Provided further, That acquisitions shall be limited to one or more reservations as determined by the Secretary: Provided further, That funds shall be available for acquisition of fractional interests in trust or restricted lands with the consent of its owners and at fair market value, and the Secretary shall hold in trust for such tribe all interests acquired pursuant to this program: Provided further, That all proceeds from any lease, resource sale contract, right-of-way or other transaction derived from the fractional interest shall be credited to this appropriation, and remain available until expended, until the purchase price paid by the Secretary under this appropriation has been recovered from such proceeds: Provided further, That once the purchase price has been recovered, all subsequent proceeds shall be managed by the Secretary for the benefit of the applicable tribe or paid directly to the tribe.

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), and the Act of July 27, 1990, as amended (16 U.S.C. 19jj et seq.), $5,403,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: Provided, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: Provided further, That no programs funded with appropriated funds in the ''Departmental Management'', ''Office of the Solicitor'', and ''Office of Inspector General'' may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be ''emergency requirements'' pursuant to section

251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for ''wildland fire operations'' shall be exhausted within thirty days: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be ''emergency requirements'' pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Annual appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of 12 months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore oil and natural gas preleasing, leasing, and related activities, on lands within the North Aleutian Basin planning area.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 111. Advance payments made under this title to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(1) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or

(2) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

SEC. 112. Notwithstanding any other provisions of law, the National Park Service shall not develop or implement a reduced entrance fee program to accommodate non-local travel through a unit. The Secretary may provide for and regulate local non-recreational passage through units of the National Park System, allowing each unit to develop guidelines and permits for such activity appropriate to that unit.

SEC. 113. Refunds or rebates received on an on-going basis from a credit card services provider under the Department of the Interior's charge card programs may be deposited to and retained without fiscal year limitation in the Departmental Working Capital Fund established under 43 U.S.C. 1467 and used to fund management initiatives of general benefit to the Department of the Interior's bureaus and offices as determined by the Secretary or his designee.

SEC. 114. Appropriations made in this title under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any available unobligated balances from prior appropriations Acts made under the same headings, shall be available for expenditure or transfer for Indian trust management activities pursuant to the Trust Management Improvement Project High Level Implementation Plan.

SEC. 115. Notwithstanding any provision of law, the Secretary of the Interior is authorized to negotiate and enter into agreements and leases, without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b), with any person, firm, association, organization, corporation, or governmental entity for all or part of the property within Fort Baker administered by the Secretary as part of Golden Gate National Recreation Area. The proceeds of the agreements or leases shall be retained by the Secretary and such proceeds shall be available, without future appropriation, for the preservation, restoration, operation, maintenance and interpretation and related expenses incurred with respect to Fort Baker properties.

SEC. 116. A grazing permit or lease that expires (or is transferred) during fiscal year 2001 shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752) or if applicable, section 510 of the California Desert Protection Act (16 U.S.C. 410aaa–50). The terms and conditions contained in the expiring permit or lease shall continue in effect under the new permit or lease until such time as the Secretary of the Interior completes processing of such permit or lease in compliance with all applicable laws and regulations, at which time such permit or lease may be canceled, suspended or modified, in whole or in part, to meet the requirements of such applicable laws and regulations. Nothing in this section shall be deemed to alter the Secretary's statutory authority.

SEC. 117. Notwithstanding any other provision of law, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: Provided, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

SEC. 118. (a) Notwithstanding any other provision of law, with respect to amounts made available for tribal priority allocations in Alaska, such amounts shall only be provided to tribes the membership of which on June 1, 2000 is composed of at least 25 individuals who are Natives (as such term is defined in section 3(b) of the Alaska Native Claims Settlement Act).

(b) Amounts that would have been made available for tribal priority allocations in Alaska but for the limitation contained in subsection (a) shall be provided to the respective Alaska Native regional nonprofit corporation (as listed in section 103(a)(2) of Public Law 104–193, 110 Stat. 2159) for the respective region in which a tribe subject to subsection (a) is located, notwithstanding any resolution authorized under federal law to the contrary.

SEC. 119. None of the funds in this Act may be used to establish a new National Wildlife Refuge in the Kankakee River basin that is inconsistent with the United States Army Corps of Engineers' efforts to control flooding and siltation in that area. Written certification of consistency shall be submitted to the House and Senate Committees on Appropriations prior to refuge establishment.

SEC. 120. (a) In this section—

(1) the term ''Huron Cemetery'' means the lands that form the cemetery that is popularly

known as the Huron Cemetery, located in Kansas City, Kansas, as described in subsection (b)(3); and

(2) the term ''Secretary'' means the Secretary of the Interior.

(b)(1) The Secretary shall take such action as may be necessary to ensure that the lands comprising the Huron Cemetery (as described in paragraph (3)) are used only in accordance with this subsection.

(2) The lands of the Huron Cemetery shall be used only—

(A) for religious and cultural uses that are compatible with the use of the lands as a cemetery; and

(B) as a burial ground.

(3) The description of the lands of the Huron Cemetery is as follows:

The tract of land in the NW quarter of sec. 10, T. 11 S., R. 25 E., of the sixth principal meridian, in Wyandotte County, Kansas (as surveyed and marked on the ground on August 15, 1888, by William Millor, Civil Engineer and Surveyor), described as follows:

''Commencing on the Northwest corner of the Northwest Quarter of the Northwest Quarter of said Section 10;

''Thence South 28 poles to the 'true point of beginning';

''Thence South 71 degrees East 10 poles and 18 links;

''Thence South 18 degrees and 30 minutes West 28 poles;

''Thence West 11 and one-half poles;

''Thence North 19 degrees 15 minutes East 31 poles and 15 feet to the 'true point of beginning', containing 2 acres or more.''.

SEC. 121. None of the Funds provided in this Act shall be available to the Bureau of Indian Affairs or the Department of the Interior to transfer land into trust status for the Shoalwater Bay Indian Tribe in Clark County, Washington, unless and until the tribe and the county reach a legally enforceable agreement that addresses the financial impact of new development on the county, school district, fire district, and other local governments and the impact on zoning and development.

SEC. 122. None of the funds provided in this Act may be used by the Department of the Interior to implement the provisions of Principle 3(C)ii and Appendix section 3(B)(4) in Secretarial Order 3206, entitled ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act''.

SEC. 123. No funds appropriated for the Department of the Interior by this Act or any other Act shall be used to study or implement any plan to drain Lake Powell or to reduce the water level of the lake below the range of water levels required for the operation of the Glen Canyon Dam.

SEC. 124. Funds appropriated for the Bureau of Indian Affairs for postsecondary schools for fiscal year 2001 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 125. On the date of enactment, the National Marine Fisheries Service and the U.S. Fish and Wildlife Service shall continue consultation with the U.S. Army Corps of Engineers to develop a comprehensive plan to eliminate Caspian Tern nesting at Rice Island in the Columbia River Estuary. The agencies shall develop a report on the significance of tern predation in limiting salmon recovery and their roles and recommendations for the Rice Island colony relocation by March 31, 2001. This report shall address all available options for successfully completing the Rice Island colony relocation.

SEC. 126. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104–208, the Secretary may accept and retain land and other forms of reimbursement: Provided, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by Public Law 100–696; 16 U.S.C. 460zz.

SEC. 127. Section 112 of Public Law 103–138 (107 Stat. 1399) is amended by striking ''permit LP–GLBA005–93'' and inserting ''permit LP–GLBA005–93 and in connection with a corporate reorganization plan, the entity that, after the corporate reorganization, holds entry permit CP–GLBA004–00 each''.

SEC. 128. Notwithstanding any other provision of law, the Secretary of the Interior shall designate Anchorage, Alaska, as a port of entry for the purpose of section 9(f)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1538(f)(1)).

SEC. 129. (a) The first section of Public Law 92–501 (86 Stat. 904) is amended by inserting after the first sentence ''The park shall also include the land as generally depicted on the map entitled 'subdivision of a portion of U.S. Survey 407, Tract B, dated May 12, 2000' ''.

(b) Section 3 of Public Law 92–501 is amended to read as follows: ''There are authorized to be appropriated such sums as are necessary to carry out the terms of this Act.''.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $221,966,000, to remain available until expended.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, cooperative forestry, and education and land conservation activities, $226,266,000, to remain available until expended, as authorized by law.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, $1,233,824,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): Provided, That unobligated balances available at the start of fiscal year 2001 shall be displayed by extended budget line item in the fiscal year 2002 budget justification: Provided further, That of the amount available for vegetation and watershed management, the Secretary may authorize the expenditure or transfer of such sums as necessary to the Department of the Interior, Bureau of Land Management for removal, preparation, and adoption of excess wild horses and burros from National Forest System lands: Provided further, That $5,000,000 shall be allocated to the Alaska Region, in addition to its normal allocation for the purposes of preparing additional timber for sale, to establish a 3-year timber supply and such funds may be transferred to other appropriations accounts as necessary to maximize accomplishment: Provided further, That of funds available for Wildlife and Fish Habitat Management, $400,000 shall be provided to the State of Alaska for cooperative monitoring activities, and of the funds provided for Forest Products, $700,000 shall be provided to the State of Alaska for monitoring activities at Forest Service log transfer facilities, both in the form of an advance, direct lump sum payment.

WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, and for emergency rehabilitation of burned-over National Forest System lands and water, $618,500,000, to remain available until expended: Provided, That such funds are available for repayment of advances from other appropriations accounts previously transferred for such purposes: Provided further, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2000 shall be transferred, as repayment for post advances that have not been repaid, to the fund established pursuant to section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.): Provided further, That notwithstanding any other provision of law, up to $5,000,000 of funds appropriated under this appropriation may be used for Fire Science Research in support of the Joint Fire Science Program: Provided further, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest Service and Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research.

For an additional amount to cover necessary expenses for emergency rehabilitation, presuppression due to emergencies, and wildfire suppression activities of the Forest Service, $150,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That these funds shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, $448,312,000, to remain available until expended for construction, reconstruction, maintenance and acquisition of buildings and other facilities, and for construction, reconstruction, repair and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: Provided, That $5,000,000 of the funds provided herein for roads shall be for the purposes of section 502(e) of Public Law 15–83: Provided further, That up to $15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: Provided further, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project: Provided further, That any unobligated balances of amounts previously appropriated to the Forest Service ''Reconstruction and Construction'' account as well as any unobligated balances remaining in the ''National Forest System'' account for the facility maintenance and trail maintenance extended budget line items may be transferred to and merged with the ''Capital Improvement and Maintenance'' account.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $76,320,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: Provided, That notwithstanding any other provision of law, of the funds provided not less than $5,000,000 but not to exceed $10,000,000

shall be made available to Kake Tribal Corporation to implement the Kake Tribal Corporation Land Transfer Act upon its enactment into law.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,068,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

SUBSISTENCE MANAGEMENT, FOREST SERVICE

For necessary expenses of the Forest Service to manage federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), $5,500,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of not to exceed 132 passenger motor vehicles of which 13 will be used primarily for law enforcement purposes and of which 129 shall be for replacement; acquisition of 25 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed six for replacement only, and acquisition of sufficient aircraft from excess sources to maintain the operable fleet at 192 aircraft for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein, pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to abolish any region, to move or close any regional office for National Forest System administration of the Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions if and only if all previously appropriated emergency contingent funds under the heading ''Wildland Fire Management'' have been released by the President and apportioned.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report No. 105–163.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report No. 105–163.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Funds available to the Forest Service shall be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even-aged management in hardwood stands in the Shawnee National Forest, Illinois.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to $2,250,000 may be advanced in a lump sum as Federal financial assistance to the National Forest Foundation, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: Provided, That of the Federal funds made available to the Foundation, no more than $400,000 shall be available for administrative expenses: Provided further, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: Provided further, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: Provided further, That hereafter, the National Forest Foundation may hold Federal funds made available but not immediately disbursed and may use any interest or other investment income earned (before, on, or after the date of the enactment of this Act) on Federal funds to carry out the purposes of Public Law 101–593: Provided further, That such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98–244, $2,650,000 of the funds available to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation, as authorized by 16 U.S.C. 3701–3709, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefitting National Forest System lands or related to Forest Service programs: Provided, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds advanced by the Forest Service: Provided further, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the ''National Forest System'' and ''Capital Improvement and Maintenance'' accounts and planned to be allocated to activities under the ''Jobs in the Woods'' program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99–663.

The Secretary of Agriculture is authorized to enter into grants, contracts, and cooperative agreements as appropriate with the Pinchot Institute for Conservation, as well as with public and other private agencies, organizations, institutions, and individuals, to provide for the development, administration, maintenance, or restoration of land, facilities, or Forest Service programs, at the Grey Towers National Historic Landmark: Provided, That, subject to such terms and conditions as the Secretary of Agriculture may prescribe, any such public or private agency, organization, institution, or individual may solicit, accept, and administer private gifts of money and real or personal property for the benefit of, or in connection with, the activities and services at the Grey Towers National Historic Landmark: Provided further, That such gifts may be accepted notwithstanding the fact that a donor conducts business with the Department of Agriculture in any capacity.

Funds appropriated to the Forest Service shall be available, as determined by the Secretary, for payments to Del Norte County, California, pursuant to sections 13(e) and 14 of the Smith River National Recreation Area Act (Public Law 101–612).

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed $500,000 may be used to reimburse the Office of the General Counsel (OGC), Department of Agriculture, for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations and similar non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture

should clearly display the sums previously transferred and the requested funding transfers.

No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

The Forest Service shall fund overhead, national commitments, indirect expenses, and any other category for use of funds which are expended at any units, that are not directly related to the accomplishment of specific work on-the-ground (referred to as ''indirect expenditures''), from funds available to the Forest Service, unless otherwise prohibited by law: Provided, That the Forest Service shall implement and adhere to the definitions of indirect expenditures established pursuant to Public Law 105–277 on a nationwide basis without flexibility for modification by any organizational level except the Washington Office, and when changed by the Washington Office, such changes in definition shall be reported in budget requests submitted by the Forest Service: Provided further, That the Forest Service shall provide in all future budget justifications, planned indirect expenditures in accordance with the definitions, summarized and displayed to the Regional, Station, Area, and detached unit office level. The justification shall display the estimated source and amount of indirect expenditures, by expanded budget line item, of funds in the agency's annual budget justification. The display shall include appropriated funds and the Knutson-Vandenberg, Brush Disposal, Cooperative Work-Other, and Salvage Sale funds. Changes between estimated and actual indirect expenditures shall be reported in subsequent budget justifications: Provided, That during fiscal year 2001 the Secretary shall limit total annual indirect obligations from the Brush Disposal, Cooperative Work-Other, Knutson-Vandenberg, Reforestation, Salvage Sale, and Roads and Trails funds to 20 percent of the total obligations from each fund.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: Provided, That such amounts shall not exceed $750,000.

The Secretary of Agriculture shall pay $4,449 from available funds to Joyce Liverca as reimbursement for various expenses incurred as a Federal employee in connection with certain high priority duties performed for the Forest Service.

The Forest Service shall submit a report to the House and Senate Committees on Appropriations by March 1, 2001 indicating the anticipated timber offer level in fiscal year 2001 with the funds provided in this Act: Provided, That if the anticipated offer level is less than 3.6 billion board feet, the agency shall submit a reprogramming request to attain this offer level by the close of fiscal year 2001.

Of the funds available to the Forest Service, $150,000 shall be made available in the form of an advanced, direct lump sum payment to the Society of American Foresters to support conservation education purposes in collaboration with the Forest Service.

The Secretary of Agriculture may authorize the sale of excess buildings, facilities, and other properties owned by the Forest Service and located on the Green Mountain National Forest, the revenues of which shall be retained by the Forest Service and available to the Secretary without further appropriation and until expended for maintenance and rehabilitation activities on the Green Mountain National Forest.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

(DEFERRAL)

Of the funds made available under this heading for obligation in prior years, $67,000,000 shall not be available until October 1, 2001: Provided, That funds made available in previous appropriations Acts shall be available for any ongoing project regardless of the separate request for proposal under which the project was selected.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), performed under the minerals and materials science programs at the Albany Research Center in Oregon $413,338,000, to remain available until expended, of which $12,000,000 for oil technology research shall be derived by transfer from funds appropriated in prior years under the heading ''Strategic Petroleum Reserve, SPR Petroleum Account'': Provided, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: Provided further, That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this account.

ALTERNATIVE FUELS PRODUCTION

(RESCISSION)

Of the unobligated balances under this heading, $1,000,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

(RESCISSION)

Of the amounts previously appropriated under this heading, $7,000,000 are rescinded: Provided, That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply to fiscal year 2001 and any fiscal year thereafter: Provided further, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling installment payments under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104–106, $36,000,000, to become available on October 1, 2001 for payment to the State of California for the State Teachers' Retirement Fund from the Elk Hills School Lands Fund.

ENERGY CONSERVATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out energy conservation activities, $761,937,000, to remain available until expended, of which $2,000,000 shall be derived by transfer from unobligated balances in the Biomass Energy Development account: Provided, That $172,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507): Provided further, That notwithstanding section 3003(d)(2) of Public Law 99–509, such sums shall be allocated to the eligible programs as follows: $138,000,000 for weatherization assistance grants and $34,000,000 for State energy conservation grants: Provided further, That notwithstanding any other provision of law, the Secretary of Energy may waive the matching requirement for weatherization assistance provided for by Public Law 106–113 in whole or in part for a State which he finds to be experiencing fiscal hardship or major changes in energy markets or suppliers or other temporary limitations on its ability to provide matching funds, provided that the State is demonstrably engaged in continuing activities to secure non-federal resources and that such waiver is limited to one fiscal year and that no state may be granted such waiver more than twice: Provided further, That Indian tribal grantees of weatherization assistance shall not be required to provide matching funds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, $2,000,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $157,000,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $74,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign: Provided, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: Provided further, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: Provided further, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

In addition to other authorities set forth in this Act, the Secretary may accept fees and contributions from public and private sources, to be

deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State or private agencies or concerns.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $2,184,421,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: Provided, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: Provided further, That $426,756,000 for contract medical care shall remain available for obligation until September 30, 2002: Provided further, That of the funds provided, up to $17,000,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: Provided further, That funds provided in this Act may be used for 1-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): Provided further, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 2002: Provided further, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: Provided further, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed $243,781,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2001, of which not to exceed $10,000,000 may be used for such costs associated with new and expanded contracts, grants, self-governance compacts or annual funding agreements: Provided further, That amounts appropriated to the Indian Health Service shall not be used to pay for contract health services in excess of the established Medicare and Medicaid rate for similar services: Provided further, That Indian tribes and tribal organizations that operate health care programs under contracts or compacts pursuant to the Indian Self-Determination and Education Assistance Act of 1975, Public Law 93–638, as amended, may access prime vendor rates for the cost of pharmaceutical products on the same basis and for the same purposes as the Indian Health Service may access such products: Provided further, That funds available for the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $349,350,000, to remain available until expended: Provided, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: Provided further, That from the funds appropriated herein, $5,000,000 shall be designated by the Indian Health Service as a contribution to the Yukon-Kuskokwim Health Corporation (YKHC) to start a priority project for the acquisition of land, planning, design and construction of 79 staff quarters at Bethel, Alaska, subject to a negotiated project agreement between the YKHC and the Indian Health Service: Provided further, That this project shall not be subject to the construction provisions of the Indian Self-Determination and Education Assistance Act and shall be removed from the Indian Health Service priority list upon completion: Provided further, That the Federal Government shall not be liable for any property damages or other construction claims that may arise from YKHC undertaking this project: Provided further, That the land shall be owned or leased by the YKHC and title to quarters shall remain vested with the YKHC: Provided further, That notwithstanding any provision of law governing Federal construction, $240,000 of the funds provided herein shall be provided to the Hopi Tribe to reduce the debt incurred by the Tribe in providing staff quarters to meet the housing needs associated with the new Hopi Health Center: Provided further, That $5,000,000 shall remain available until expended for the purpose of funding joint venture health care facility projects authorized under the Indian Health Care Improvement Act, as amended: Provided further, That priority, by rank order, shall be given to tribes with outpatient projects on the existing Indian Health Services priority list that have Service-approved planning documents, and can demonstrate by March 1, 2001, the financial capability necessary to provide an appropriate facility: Provided further, That joint venture funds unallocated after March 1, 2001, shall be made available for joint venture projects on a competitive basis giving priority to tribes that currently have no existing Federally-owned health care facility, have planning documents meeting Indian Health Service requirements prepared for approval by the Service and can demonstrate the financial capability needed to provide an appropriate facility: Provided further, That the Indian Health Service shall request additional staffing, operation and maintenance funds for these facilities in future budget requests: Provided further, That not to exceed $500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: Provided further, That not to exceed $500,000 shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: Provided further, That not to exceed $500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefore as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: Provided, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: Provided further, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended: Provided further, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: Provided further, That notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title III of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title III of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: Provided further, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: Provided further, That with respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment, and the reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to

the same or subsequent appropriation account which provided the funding, said amounts to remain available until expended: Provided further, That reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance: Provided further, That the appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $15,000,000, to remain available until expended: Provided, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: Provided further, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: Provided further, That no relocatee will be provided with more than one new or replacement home: Provided further, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56 part A), $4,125,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, $387,755,000, of which not to exceed $47,088,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended, and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: Provided further, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: Provided further, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: Provided further, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

REPAIR, RESTORATION AND ALTERATION OF FACILITIES

For necessary expenses of repair, restoration, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $57,600,000, to remain available until expended, of which $7,600,000 is provided for repair, rehabilitation and alteration of facilities at the National Zoological Park: Provided, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $4,500,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

The Smithsonian Institution shall not use Federal funds in excess of the amount specified in Public Law 101–185 for the construction of the National Museum of the American Indian.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $64,781,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $10,871,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $14,000,000.

CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $20,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $7,310,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $105,000,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, for program support, and for administering the functions of the Act, to remain available until expended: Provided, That funds previously appropriated to the National Endowment for the Arts ''Matching Grants'' account may be transferred to and merged with this account.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $104,604,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $15,656,000, to remain available until expended, of which $11,656,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out subtitle C of the Museum and Library Services Act of 1996, as amended, $24,907,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: Provided further, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $1,078,000: Provided, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956(a)), as amended, $7,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), $3,189,000: Provided, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $6,500,000: Provided, That all appointed members of the Commission will be compensated at a rate not to exceed the daily equivalent of the annual rate of pay for positions at level IV of the Executive Schedule for each day such member is engaged in the actual performance of duties.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388 (36 U.S.C. 1401), as amended, $34,439,000, of which $1,900,000 for the museum's repair and rehabilitation program and $1,264,000 for the museum's exhibitions program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, $23,400,000 shall be available to the Presidio Trust, to remain available until expended. The Trust is authorized to issue obligations to the Secretary of the Treasury pursuant to section 104(d)(3) of the Act, in an amount not to exceed $10,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: Provided, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless advance notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 307. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2000.

SEC. 308. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 309. None of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps program, unless the relevant agencies of the Department of the Interior and/or Agriculture follow appropriate reprogramming guidelines: Provided, That if no funds are provided for the AmeriCorps program by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, then none of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps programs.

SEC. 310. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when it is made known to the Federal official having authority to obligate or expend such funds that such pedestrian use is consistent with generally accepted safety standards.

SEC. 311. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2001, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 312. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103–138, 103–332, 104–134, 104–208, 105–83, 105–277, and 106–113 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2001 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 313. Notwithstanding any other provision of law, for fiscal year 2001 the Secretaries of Agriculture and the Interior are authorized to limit competition for watershed restoration project contracts as part of the ''Jobs in the Woods'' component of the President's Forest Plan for the Pacific Northwest or the Jobs in the Woods Program established in Region 10 of the Forest Service to individuals and entities in historically timber-dependent areas in the States of Washington, Oregon, northern California and Alaska that have been affected by reduced timber harvesting on Federal lands.

SEC. 314. None of the funds collected under the Recreational Fee Demonstration program may be used to plan, design, or construct a visitor center or any other permanent structure without prior approval of the House and the Senate Committees on Appropriations if the estimated total cost of the facility exceeds $500,000.

SEC. 315. All interests created under leases, concessions, permits and other agreements associated with the properties administered by the Presidio Trust shall be exempt from all taxes and special assessments of every kind by the State of California and its political subdivisions.

SEC. 316. None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance.

SEC. 317. Of the funds provided to the National Endowment for the Arts—

(1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 318. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

SEC. 319. (a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term ''underserved population'' means a population of individuals, including urban minorities, who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

SEC. 320. No part of any appropriation contained in this Act shall be expended or obligated to fund new revisions of national forest land management plans until new final or interim final rules for forest land management planning are published in the Federal Register. Those national forests which are currently in a revision process, having formally published a Notice of Intent to revise prior to October 1, 1997; those national forests having been court-ordered to revise; those national forests where plans reach the 15 year legally mandated date to revise before or during calendar year 2001; national forests within the Interior Columbia Basin Ecosystem study area; and the White Mountain National Forest are exempt from this section and may use funds in this Act and proceed to complete the forest plan revision in accordance with current forest planning regulations.

SEC. 321. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 322. None of the funds in this Act may be used to support Government-wide administrative functions unless such functions are justified in the budget process and funding is approved by the House and Senate Committees on Appropriations.

SEC. 323. Notwithstanding any other provision of law, none of the funds in this Act may be used for GSA Telecommunication Centers or the President's Council on Sustainable Development.

SEC. 324. None of the funds in this Act may be used for planning, design or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the House and Senate Committees on Appropriations.

SEC. 325. Amounts deposited during fiscal year 2000 in the roads and trails fund provided for in the fourteenth paragraph under the heading ''FOREST SERVICE'' of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The Secretary shall commence the projects during fiscal year 2001, but the projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 326. None of the funds provided in this or previous appropriations Acts for the agencies funded by this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be transferred to or used to fund personnel, training, or other administrative activities at the Council on Environmental Quality or other offices in the Executive Office of the President for purposes related to the American Heritage Rivers program.

SEC. 327. Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.

SEC. 328. No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar: Provided, That sales which are deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar may be advertised upon receipt of a written request by a prospective, informed bidder, who has the opportunity to review the Forest Service's cruise and harvest cost estimate for that timber. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 2001, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar, all of the western red cedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in fiscal year 2001, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar, the volume of western red cedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska; and (ii) is that percent of the surplus western red cedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a ''rolling basis'' shall mean that the determination of how much western red cedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western red cedar shall be deemed ''surplus to the needs of domestic processors in Alaska'' when the timber sale holder has presented to the Forest Service documentation of the inability to sell western red cedar logs from a given sale to domestic Alaska processors at price equal to or greater than the log selling value stated in the contract. All additional western red cedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.

SEC. 329. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

SEC. 330. The Forest Service, in consultation with the Department of Labor, shall review Forest Service campground concessions policy to determine if modifications can be made to Forest Service contracts for campgrounds so that such concessions fall within the regulatory exemption of 29 CFR 4.122(b). The Forest Service shall offer in fiscal year 2001 such concession prospectuses under the regulatory exemption, except that, any prospectus that does not meet the requirements of the regulatory exemption shall be offered as a service contract in accordance with the requirements of 41 U.S.C. 351–358.

SEC. 331. A project undertaken by the Forest Service under the Recreation Fee Demonstration Program as authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996, as amended, shall not result in—

(1) displacement of the holder of an authorization to provide commercial recreation services on Federal lands. Prior to initiating any project, the Secretary shall consult with potentially affected holders to determine what impacts the project may have on the holders. Any modifications to the authorization shall be made within the terms and conditions of the authorization and authorities of the impacted agency.

(2) the return of a commercial recreation service to the Secretary for operation when such services have been provided in the past by a private sector provider, except when—

(A) the private sector provider fails to bid on such opportunities;

(B) the private sector provider terminates its relationship with the agency; or

(C) the agency revokes the permit for noncompliance with the terms and conditions of the authorization.

In such cases, the agency may use the Recreation Fee Demonstration Program to provide for operations until a subsequent operator can be found through the offering of a new prospectus.

SEC. 332. Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(D)(iii)) is amended by striking ''$750,000'' and inserting ''$10,000,000''.

SEC. 333. From the funds appropriated in Title V of Public Law 105–83 for the purposes of section 502(e) of that Act, the following amounts are hereby rescinded: $1,000,000 for snow removal and pavement preservation and $4,000,000 for pavement rehabilitation.

SEC. 334. In section 315(f) of Title III of Section 101(c) of Public Law 104–134 (16 U.S.C. 460l–6a note), as amended, strike ''September 30, 2001'' and insert ''September 30, 2002'', and strike ''September 30, 2004'' and insert ''September 30, 2005''.

SEC. 335. None of the funds in this Act may be used by the Secretary of the Interior to issue a prospecting permit for hardrock mineral exploration on Mark Twain National Forest land in the Current River/Jack's Fork River—Eleven Point Watershed (not including Mark Twain National Forest land in Townships 31N and 32N, Range 2 and Range 3 West, on which mining activities are taking place as of the date of the enactment of this Act): Provided, That none of the funds in this Act may be used by the Secretary of the Interior to segregate or withdraw land in the Mark Twain National Forest, Missouri under section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

SEC. 336. The authority to enter into stewardship and end result contracts provided to the Forest Service in accordance with Section 347 of Title III of Section 101(e) of Division A of Public Law 105–825 is hereby expanded to authorize the Forest Service to enter into an additional 28 contracts subject to the same terms and conditions as provided in that section: Provided, That of the additional contracts authorized by this section at least 9 shall be allocated to Region 1 and at least 3 to Region 6.

SEC. 337. Any regulations or policies promulgated or adopted by the Departments of Agriculture or the Interior regarding recovery of costs for processing authorizations to occupy and use Federal lands under their control shall adhere to and incorporate the following principle arising from Office of Management and Budget Circular, A–25; no charge should be made for a service when the identification of the specific beneficiary is obscure, and the service can be considered primarily as benefiting broadly the general public.

SEC. 338. LOCAL EXEMPTIONS FROM FOREST SERVICE DEMONSTRATION PROGRAM FEES. Section 6906 of Title 31, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Necessary''; and

(2) by adding at the end the following:

''(b) LOCAL EXEMPTIONS FROM DEMONSTRATION PROGRAM FEES.—

''(1) IN GENERAL.—Each unit of general local government that lies in whole or in part within the White Mountain National Forest and persons residing within the boundaries of that unit of general local government shall be exempt during that fiscal year from any requirement to pay a Demonstration Program Fee (parking permit or passport) imposed by the Secretary of Agriculture for access to the Forest.

''(2) ADMINISTRATION.—The Secretary of Agriculture shall establish a method of identifying persons who are exempt from paying user fees under paragraph (1). This method may include valid form of identification including a drivers license.''.

SEC. 339. None of the funds made available in this or any other Act may be used by the Bureau of Land Management or the U.S. Forest Service to assess, appraise, determine, proceed to determine, or collect rents for right-of-way uses for federal lands except as such rents have been or may be determined in accordance with the linear fee schedule published on July 8, 1997 ([43 CFR 2803.1–2(c)(1)(i)]).

SEC. 340. Notwithstanding any other provision of law, for fiscal year 2001, the Secretary of Agriculture is authorized to limit competition for fire and fuel treatment and watershed restoration contracts in the Giant Sequoia National Monument and the Sequoia National Forest. Preference for employment shall be given to dislocated and displaced workers in Tulare, Kern and Fresno Counties, California, for work associated with the establishment of the Sequoia National Monument.

SEC. 341. The Chief of the Forest Service, in consultation with the Administrator of the Small Business Administration, shall prepare a regulatory flexibility analysis, in accordance with chapter 6 of part I of title 5, United States Code, of the impact of the White River National Forest Plan on communities that are within the boundaries of the White River National Forest.

SEC. 342. None of the funds appropriated or otherwise made available by this Act may be used to finalize or implement the published roadless area conservation rule of the Forest Service published on May 10, 2000 (36 Fed. Reg. 30276, 30288), or any similar rule, in any inventoried roadless area in the White Mountain National Forest.

SEC. 343. From funds previously appropriated in Public Law 105–277, under the heading ''Department of Energy, Fossil Energy Research and Development'', the Secretary of Energy shall make available within 30 days after enactment of this Act $750,000 for the purpose of executing proposal #FT40770.

SEC. 344. (a) In addition to any amounts otherwise made available under this Act to carry out the Tribally Controlled College or University Assistance Act of 1978, $1,891,000 is appropriated to carry out such Act for fiscal year 2001.

(b) Notwithstanding any other provision of this Act, the amount of funds provided to a Federal agency that receives appropriations under this Act in an amount greater than $20,000,000 shall be reduced, on a pro rata basis, by an amount equal to the percentage necessary to achieve an aggregate reduction of $1,891,000 in funds provided to all such agencies under this Act. Each head of a Federal agency that is subject to a reduction under this subsection shall ensure that the reduction in funding to the agency resulting from this subsection is offset by a reduction in travel expenditures of the agency.

(c) Within 30 days of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House and Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (b) of this section.

This Act may be cited as the ''Department of the Interior and Related Agencies Appropriations Act, 2001''.

Mr. GORTON. Mr. President, I am pleased to bring before the Senate the Interior and Related Agencies Appropriations Act for fiscal year 2001. The bill totals $15.474 billion in discretionary budget authority, an amount that is more than $600 million over the current year level but almost $1 billion lower than the administration's budget request. The bill is right at its 302(b) allocation, and as such any amendments must be fully offset.

Drafting this bill is always a great challenge, in large part because it funds programs and activities that have a direct and tangible impact on the constituents that we represent. This is particularly true for those of my colleagues from western States that contain large amounts of Federal and tribal lands. But aside from the usual challenges posed by the Interior bill, this year's version has been especially difficult given the lofty expectations raised by the administration's rather extravagant budget. The administration's request amounts to an increase of 11 percent overall—a hefty increase in light of our ongoing efforts to maintain some degree of control over Federal spending. The bill before the Senate contains a more reasonable increase of about 5 percent—an amount that I think is appropriate as we attempt to fashion an overall budget that protects Social Security and Medicare, reduces the national debt, and provides for sensible tax relief.

Despite the more modest funding levels contained in this bill, I can assure my colleagues that the bill is a responsible product that is responsive to the most pressing needs of the land management agencies; the agencies that provide health, education and other services to Indian people; the several cultural institutions under the subcommittee's jurisdiction; and a number of Department of Energy programs that are particularly relevant today in light of the recent rise in gasoline prices.

In drafting this bill in consultation with the ranking member of the subcommittee, Senator BYRD, I have followed a number of basic principles.

First, the bill provides nearly 100 percent of the money required to fund increases in fixed costs such as pay and benefits. These are cost increases over which the subcommittee has little or no control. Failure to provide these funds simply means agencies must reduce services or program delivery from current year levels. For the Interior bill as a whole, these fixed cost increases total more than $300 million in FY 2001. Providing this amount simply to maintain current levels of service takes a large bit out of the overall increase in the subcommittee's allocation.

Second, I have placed a high priority in those agencies and functions for which the Federal Government has sole or primary responsibility. Providing for the core operating needs of the land management agencies continues to be a central priority in this bill. We have also tried to provide adequate sums for the operation and maintenance of the Smithsonian, the National Gallery, and the Kennedy Center—institutions that are our direct responsibility. Finally, we have done our very best to provide for the core needs of the Indian peoples for whom we have trust responsibility—partiuclarly in the area of health services and education.

The third major principle that has guided me in developing this bill really flows from the second. For years, I

have listened to Senator DOMENICI, Senator DORGAN, Senator CAMPBELL, and others talk in hearings, markups, and casual conservation about the need for major investment in the construction and repair of Indian schools. I have been shown pictures of Indian schools in other States to which none of us would want to send our own children, and am aware of schools in my own State that are in desperate need of repair or replacement. Much like Department of Defense schools, these Indian schools are the direct responsibility of the Federal Government. In many cases, however, they look very little like Department of Defense schools, and are not in a condition that we would allow to occur within the DOD school system.

As chairman of the Interior subcommittee, it has been frustrating to not be able to respond to such a pressing need in anything more than an incremental manner. But given the difficult spending constraints under which the committee has been operating for a number of years, it has been impossible to make significant progress on this issue without it being identified as a priority in administration budget requests. This year, however, the administration has responded to the pleas of my colleagues—a development that apparently was spurred by the President's recent visit to Indian country. The FY 2001 budget request includes dramatic increases for both new school construction and repair and rehabilitation of existing schools. While the bill before you does not provide 100 percent of the request, it does provide an increase of $143 million for BIA school construction and repair. This amount is enough to complete the next six schools on the construction priority list, as well as provide an $84 million increase for the repair and rehabilitation account. Maintaining these funding levels will be one of my highest priorities in conference with the House.

Adhering to these fundamental principles while remaining within the subcommittee's 302(b) allocation did not leave a great deal of room for other program increases. As a result, there is perhaps less in this bill for land acquisition, grant programs, and specific member projects than some would like. I think, however, that the bill reflects the right set of priorities. I have attempted to allocate available resources to the most compelling needs identified in agency budget requests, as well as to the particular priorities identified to me in the more than 2,000 individual requests I have received from Members of this body. I regret not being able to do more of the things that my colleagues have asked me to do, but want to assure Members on both sides of the aisle that I have made every effort to treat these requests in a fair and even-handed manner.

While I do not wish to belabor the details, I do want to take a moment to point out a few highlights of the bill for the benefit of my colleagues who have not had a chance to review it closely. For the land management agencies, the bill provides significant increases for core operational needs.

The bill provides an increase of $80 million for operation of the National Park System, including more than $25 million for increases in the base operating budgets of more than 80 parks and related sites, including the U.S. Park Police. These increases build on similar increases that have been provided for the past several years. The bill also provides an increase of $11 million for the National Park Service to continue efforts to research and document fundamental scientific information on the biological, geological, and hydrological resources present in our park system.

For the Bureau of Land Management, the bill fully funds the request for noxious weed control, fully funds the budget request for annual and deferred maintenance, and provides an increase of $7.2 million for recreation programs. The bill also provides a $10 million increase for Payments In Lieu of Taxes, continuing the committee's steady effort to raise PILT funding toward the authorized level.

For the Forest Service, the bill provides increases of $10.5 million for recreation programs, and provides level funding for the timber program to prevent further erosion of timber offer levels. The bill also fully funds firefighting preparedness, provides all the funds requested to address survey and manage issues under the Northwest Forest Plan, and provides increases over the President's budget request for both road and trail maintenance.

For the U.S. Fish and Wildlife Service, the bill provides increases of $17 million for refuge operations and maintenance to continue efforts to bolster the Service's basic operational capabilities. The bill also includes increases of $15 million for endangered species accounts, and $5 million for law enforcement programs that have been flat-funded for a number of years.

With respect to the cultural agencies funded in this bill, I am pleased to note that funding for the National Endowment for the Arts is increased by $7 million, and funding for the National Endowment for the Humanities is increased by $5 million. While these increases are fairly modest, they are indicative of the widespread support that these two agencies have within the Senate. The increases also reflect the degree to which the Endowments have responded to congressional concerns about the types of activities being funded, and the way in which project funding decisions are made. While last year we were not able to maintain the higher Senate funding levels in conference with the House, I fully intend to maintain the increases provided for the Endowments in the final FY 2001 bill. I will put the leadership of the other body on notice now that the Senate has no intention of receding on this matter.

This bill also provides funding for a portion of the Department of Energy, including programs that support research on energy conservation and fossil energy development. This research is critical to reducing our Nation's dependence on foreign oil, and to reducing harmful emissions from vehicles, power plants and other sources. The bill provides targeted increases for the most effective of these programs. Of particular not is the $11 million increase over the request level for oil technology research and development. This program, which is designed to enhance oil production from domestic sources and to develop cleaner petroleum-based fuels, was inexplicably slated for a large reduction the administration's budget request. In light of the recent and alarming rise in the price of gasoline, such a reduction seems highly imprudent at this time. The bill also provides increases for research on cleaner, more fuel-efficient vehicles, including additional funding for the Partnership for a Next Generation of Vehicles. This program was eliminated by the other body during floor debate—something which also seems imprudent in light of our growing dependence on foreign oil, and the potentially disastrous impact that rising oil prices could have on our economy.

Among the many Indian programs funded in this bill, I have already discussed the high priority that has been placed on education programs. The bill provides increases for other Indian programs, however, including an increase of $143 million for Indian Health Services. This amount includes a $41 million program increase for additional clinical services, a $20 million increase for contract health services, and a $25 million increase for facilities construction and improvement. The bill continues the committee's efforts to help the Department of the Interior reform its abysmal trust management system. As many of my colleagues are aware, the Department is making a concerted effort to deal with a trust management mess that has been building for decades, if not the entire 20th century. This bill provides the full administration request for the Office of Special Trustee, which is charged with overseeing the trust reform initiative. The bill also provides an increase of $12.5 million for trust reform activities within the Bureau of Indian Affairs.

On a more parochial level, I would like also to talk about what this bill means for the people of Washington State. The land management agencies funded through the Interior Appropriations bill have a dramatic impact on the ecological and economic health of the Pacific Northwest. With more than 25 percent of the land in Washington State owned by the Federal Government, I have taken a special interest in assuring that we have the resources and policies that promote recreational and economic opportunities, and environmental preservation.

In preparing the FY 2001 Interior appropriations bill, I focused on three

key issues for Washington State: restoring the health of our salmon runs, providing recreational opportunities, and promoting a clean Washington State.

The salmon crisis has reached new heights in the past 6 months. While greeted by the good news that some returning Columbia River runs are at their highest levels in more than a decade, the cause of decline and the goals for recovery remain a mystery. The clash between local governments and the Federal agencies responsible for addressing the listing of these species has grown increasingly tense.

Fortunately, most can agree that homegrown efforts to recover salmon will be the foundation for addressing the species' future. In this year's Interior bill, I have continued and increased the Federal Government's investment in funding volunteer salmon recovery groups that have the best track record for identifying and restoring crucial stream and river habitat for salmon.

Increasingly, the role of fish hatcheries in the larger effort to restore naturally spawning runs of salmon has come under scrutiny. A group of key scientists from the U.S. Fish and Wildlife Service, National Marine Fisheries Service, Northwest Indian Fisheries Commission, and Washington Department of Fish and Wildlife have joined forces to develop standards for the more than 100 hatcheries located in the State. I have secured funding to continue this effort to redesign hatchery practices and retrofit the facilities to ultimately enhance salmon runs rather than detract from the larger recovery goals.

The Northwest continues to be a hot spot for recreation. Whether you are a day hiker from downtown Seattle or a back country horseman from Okanogan, all of us have a desire to preserve and enhance the recreation opportunities on our public lands. This year, I have focused my attention on improving camping and hiking opportunities in the Middle Fork Snoqualmie Valley and preserving the history of Ebey's Landing on Whidbey Island.

Finally, the health and beauty of our public lands are assets we cannot ignore. The diversity of wildlife that resides in our forests, refuges and parks must be preserved in the future. I have dedicated funding to acquiring key tracts of land that will provide connective habitat in the Cascade Range. Our children deserve a clean Washington State, and the fiscal year 2001 Interior appropriations bill makes a strong investment in the public lands we depend on for ecological and economic stability.

In the interests of expediting debate on this bill, I will not spend more of the Senate's time describing its many noteworthy features. I do, however, wish to make one final observation regarding the bill as a whole. The bill will soon be open to amendment. Any Senator may offer an amendment to move funding from one program to another. Some of these proposals I may support, as I do not claim to know all there is to know about programs funded in this bill. Many such amendments I will oppose, however, because I think the bill before you represents an appropriate balance among competing priorities. But whatever the case, the point is that the process of amendment is available to us—to all Senators.

The administration's budget request includes a proposal that would greatly diminish the right of Senators to offer amendments to change spending priorities in this bill. The ''Lands Legacy'' initiative would fence off a significant number of the programs in this bill and provide a set amount of funding for those programs. An amendment to move funding from this Lands Legacy pot to other programs would not be possible. For instance, one could not propose to shift funds from Urban and Community Forestry to Tribally Controlled Community Colleges, or from the Cooperative Endangered Species Fund to the National Park Service operations account. Regardless of what individual Senators might think about such amendments, to prohibit the simple offering of the amendment is absurd. That is why the committee has rejected the administration proposal entirely. And that is why this Senator is vehemently opposing efforts being made elsewhere in Congress to take land acquisition and a handful of favored grant programs off budget, thereby preventing the Appropriations Committee and the Senate as a whole from weighing the merits of those programs against the other critical—but sometimes less visible or popular—activities funded in this bill.

On one further matter, I know several of my colleagues have inquired about emergency items that were included in the supplemental portion of the Agriculture appropriations bill, but which were not included in the supplemental title of the military construction bill that was sent to the President prior to the recess. This category includes funding for hurricane damage to National Park Service and U.S. Fish and Wildlife Service facilities, and funding championed by Senator GRAMS that would address a major timber blowdown in Minnesota and Wisconsin. While I can not now say exactly how we will address these issues, I want to assure my colleagues that this senator is committed to seeing that these previously identified emergency needs are addressed.

Before I turn to Senator BYRD for his opening remarks, I want to state for the record how much I continue to enjoy working with him in putting this bill together year after year. He is a forceful and eloquent advocate for the interests of the State of West Virginia, as well as for the interests of Members on his side of the aisle and I may say, my side of the aisle. He is always cognizant, however, of the need to put forward a well balanced bill that adequately addresses the pressing national priorities that come under the subcommittee's jurisdiction. It is a great pleasure to work with him and his able staff. I also want to thank my own staff for the many hours they have put into this bill. It is often a grueling process, and I know I speak for all Senators in expressing appreciation for the work that has been done to get us this far.

With that, I will only add the comment that I hope we will be able to deal with this bill relatively promptly and deal with it within the parameters set by the bill itself. I think it is not nearly as controversial a proposal as sometimes has been the case in the past. The House has, of course, already passed its Interior appropriations bill, and I have every hope we can finish our task relatively promptly and send not only an acceptable but an absolutely first-rate bill to the President of the United States.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, it is a great pleasure to join with the distinguished Senator from Washington in presenting this bill. He is an extraordinarily fine chairman. I have chaired this subcommittee now for, oh, a good many years, but Senator GORTON is really one of the best subcommittee chairmen in this Senate. I say that without any hesitation. I have no compunctions about saying he is one of the finest chairmen with whom I have ever served in these 42 years in the Senate. I mean every word of it.

I have found him always to be very courteous, very considerate, very cooperative; and he is this way with all Senators—not just with me but with all of our colleagues. I could not hope to have a better chairman than he. And if it were not for the honor that goes along with the chairmanship, I would just as soon he kept this. But there is a certain honor with it, so I look forward to the time when I will be chairman of the full committee and subcommittee again. But my hat is always off to this chairman, Senator GORTON.

This is an important piece of legislation that provides for the management of our natural resources, undertakes important energy research, supports vital Indian health and education programs, and works to protect and preserve our national and cultural heritage. It is a bill on which Senator GORTON and I cooperate very closely on a bipartisan basis. We know no party in our relationship in this Senate. And that is said without any reservations whatsoever. There is no Republican Party, no Democratic Party where SLADE GORTON and I are concerned in working on this subcommittee. And I can say the same with respect to the full committee with respect to TED STEVENS, the distinguished Senator from Alaska. There is no party line in that committee.

The programs and activities funded under the jurisdiction of the subcommittee are treated in a fair and balanced way, as is customary for the annual Interior appropriations bills under the chairmanship of Senator SLADE GORTON. He is one of the best—if not the best—subcommittee chairman with whom I have had the opportunity to serve. The bill was reported unanimously by the committee, and I urge my colleagues to support its passage.

I will not repeat the summary of the bill just provided by the subcommittee chairman, except to say that, as it currently stands, this measure provides $15.4 billion in new discretionary budget authority. This amount, while less than the administration's request, is nevertheless $628 million above last year's enacted level. The bill, as reported by the committee, has fully utilized the subcommittee's entire 302(b) allocation of $15.4 billion in discretionary budget authority. Consequently, to remain consistent with the Budget Act, any amendments that propose increased funding will have to be fully offset.

So if any Senator has any amendment in mind that seeks to add money, that Senator or his staff, or both, should busy themselves about finding an offset because Peter is going to have to pay Paul in this instance. It is going to come out of somebody's funding, and I am determined it will not be mine. So I suggest that Senators look for an offset because they have to have it.

In terms of total spending, the Interior bill is by no means the largest of the 13 annual appropriations measures. Yet, despite its relatively modest size, the Interior appropriations bill commands significant attention from Members of the Senate. As is the case every year, the subcommittee received more than 2,000 Member requests seeking consideration of a particular project, or account, or activity under the jurisdiction of one agency or another in this bill. All of these requests are very important to our colleagues and the people that they represent. Unfortunately, because of the constrained spending level under the allocations provided to the Congress, it is not possible to adequately respond to all of these requests. That is what makes the crafting of this bill so difficult. Trying to balance the specific needs addressed by the Member requests on one hand, while remaining within the budgetary allocations on the other hand, is an arduous task, indeed—not as arduous, perhaps, as the problem that Solomon had, but sometimes I wonder.

Nevertheless, it is our responsibility—the responsibility of our chairman and myself—to undertake that very difficult assignment, and I commend him for his splendid efforts in meeting the highest priority needs of all Senators. For months now, he has gone to great lengths to work with me and to keep me informed, and to work with my staff to keep my staff informed, of his recommendations throughout the process of marking up and reporting this bill. Throughout this process, Senator GORTON's graciousness—that word is key, ''graciousness''—and his dedication to duty have never wavered, and I am personally grateful to him for all his courtesies.

I also express my appreciation to the fine staff members on the majority staff side, as well as members on the minority staff side. We have a new staff person on this side of the aisle—Peter Kiefhaber, German to the core, smart as they come, and hard working. That is what I like about him. He is hard working, he is courteous, and he is extremely efficient.

So with that, I think I shall join my chairman in asking Senators, if they have them, to bring their amendments to the floor. It would be my hope, as I used to do when I was chairman, to urge, with the approval of the chairman of the subcommittee, our floor staffs to contact Senators and see if they have any amendments. If they have them, let's draw up a list. Let's know which Senators have what amendments, and let's draw up a list. It would be my hope that at a time not too far away we could get unanimous consent that that be a finite list. Then we could go from there.

But I will not suggest that at the moment. I have not discussed that with the chairman. Whenever he is ready to ask his staff on that side of the aisle, I will do the same over here. We will have our leadership make calls to Senators and let us know if we are to anticipate any problems from them. If we are to anticipate such, let us know about it. And because we do have other business, we must get on with it.

I again thank my chairman, Mr. GORTON. I thank our staffs.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, once again, I thank my friend and colleague, Senator BYRD, not only for his kind words but substantively for the fact that I believe we have brought to the floor a bill that can command wide respect and that is not likely to be faced with profound amendments that change the direction or the philosophy of the bill itself.

We have put together a list of rumored amendments as well as some en bloc amendments that we can accept in closing. It is relatively modest in length. It will be good if some of them can be brought today, of course, in the course of the next less than 2 hours. But I do hope that by tomorrow we will be in a position to get a unanimous consent agreement for a finite number of amendments and can develop a way in which to deal with them very promptly.

The majority leader has told us how much he has to accomplish for the week. It will be a wonderful tribute to us, and a great help to us, if we are able to be in conference on this committee well before the week is over.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I thank my colleague from Washington and Senator BYRD, who I know want to expedite the matter, for allowing me to speak about an amendment that I am now drafting. I want to make sure this works out well. This is in response to something, as the Senator mentioned, that is a priority for both myself and Senator GRAMS. What happened is that we in Minnesota were hit with a once-in-a-thousand-years storm, literally. It was on July 4, 1999. Over 400,000 acres in Minnesota were damaged, including the Boundary Waters Canoe Area Wilderness, as well as the Gunflint Corridor, in Superior National Forest. This started in the Boundary Waters Wilderness area, which is really a national treasure.

What we are worried about is the blow-down to which Senator GORTON referred. We had a hearing in Grand Rapids on Friday. Senator CRAIG chaired the hearing, and I thought he did a superb job. Basically, what people are focused on right now is how to deal with this blow-down and the possibility of a conflagration. Everybody is very worried about what could happen. The Forest Service—I think there was also consensus on this—is doing a very good job. I think that is what people across the spectrum were saying.

What happened is we had $9.2 million in emergency funding that came out of the Senate Appropriations Committee, however we lost much of that funding when the MILCON bill got put together. The funding went from $9.2 million to $2 million. This additional $7.2 million—and I know you heard from Senator GRAMS on this as well—is critically important to us. It is important also for some of the work that the Forest Service is trying to do just by way of education.

It is incredible how few minor fires we have had; people have been paying very careful attention and are doing everything they can to prevent them. It also goes to the whole question of how we deal with the trees that are down and the underbrush and whether or not we can do the prescribed burns on what kind of schedule. This is critically important to my State of Minnesota.

So what I want to do is take 10 minutes or so to outline what we are dealing with in Minnesota, and then I will have an amendment that I will send to the desk, or I can get it to staff and Senators and see whether we can just reach some agreement.

Again, this was an unbelievable storm that hit our State. In many ways, what I think has happened is that it has brought Minnesotans together; it has brought the best out in people. We are talking about our beloved national forests. This is a critically important area; 400,000 acres in 7 counties were hit by a storm that damaged as much as 70 percent of the trees in certain areas and wiped out numerous rows. The damage of this storm has

presented unbelievable challenges, not only to land managers but all Minnesotans—people who depend on the national forest for their jobs, family incomes, industrial materials such as paper and pulp, and family vacations and recreation.

Mr. President, I do think that the Forest Service, as I said, has begun to implement a significant and important effort. In particular, what they are trying to deal with is the dead and downed timber, which is a great threat to people in the State, and really, I think, a great threat to the country because we are talking about a crown jewel wilderness area.

My intention is to have an amendment—we are working on it right now, drafting it in such a way that we clearly make the case for emergency funding, which I think we can. We really should have had this additional money. I want to make sure it is OK with colleagues on both sides. And then later on maybe we will have a vote or maybe it can be accepted. I hope we can get an agreement on this amendment. I wanted to signal my intention to you and spell out what I want to do.

Mr. President, I heard my colleague refer to this blow-down amendment. I wonder whether he might respond.

Mr. GORTON. Will the Senator yield?

Mr. WELLSTONE. Yes, but I would like to hold the floor a few more minutes. I yield temporarily.

Mr. GORTON. Mr. President, the emergency, the task, the unprecedented nature of the storm damage that is described by the Senator from Minnesota is absolutely correct. There is not a single thing he has said that meets with any resistance or disagreement on the part of this Senator.

I wish that money had been included in the bill that is now law. As I believe the Senator knows, it remains in the Agriculture appropriations bill. I guess, procedurally at least, the principal challenge or principal question is which one of these two bills is going to get to the President and actually be signed first because I know the Senator from Minnesota wishes to have this money in hand.

I make this suggestion to the Senator from Minnesota. If he would get together in just the next few hours or over the evening with the junior Senator from Minnesota and present us with a joint project, I will discuss the matter with Senator BYRD and with the leadership and tell the Senator that I think he is absolutely right; I want to get this job done as quickly as I possibly can. I will be delighted—and I am sure Senator BYRD will be delighted as well—to see to it that we do this in a way in which it becomes law and the money becomes available as quickly as possible.

Mr. WELLSTONE. Mr. President, I very much appreciate the Senator's comments. As far as I am concerned, this request should come from both Senators. I would be delighted if Senator GRAMS joined me. We will get the wording of the amendment to you. We will do this together. We want to just get it done for our State. I think the Senator from Washington can appreciate that sentiment. That is his modus operandi. I will let other Senators come forward with amendments now. I will get the amendment to you. We will have Senator GRAMS join in, and we will try to get it done on this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I want to take a few minutes to talk about the energy conservation programs in this Interior appropriations bill that we are now considering. First, I want to thank Chairman GORTON and Senator BYRD for their fine work on this bill. In particular, I am very glad to see that funding for energy conservation is 5 percent above last year's level. I firmly believe that every dollar spent on research and development for energy efficiency pays back many times in the real value for the American consumer. These programs are saving the Nation an estimated $20 billion per year in energy costs at this time.

I would like to focus my comments today on one particular program in the energy conservation budget, and that is, the Partnership for a New Generation of Vehicles. This is generally referred to as PNGV. It is a cost-shared, industry-government partnership.

It is working to improve the fuel economy of passenger cars with the ultimate goal of developing midsized cars that will get up to 80 miles per gallon.

Talking about energy efficiency in the transportation sector I believe is especially timely given the high gasoline prices that we are all concerned about throughout the Nation. I believe every Senator needs to understand why gasoline prices are rising, why the days of cheap oil are unlikely to return anytime soon, and why programs such as PNGV are so important to our economic competitors.

During the last couple of weeks, we have heard a lot on the Senate floor about the decline in domestic oil production and various proposals to stimulate new production. But production is only one side of the coin. A far more important factor in the long-term increase in oil prices is the dramatic upsurge in worldwide demand for petroleum products. The steep increase in consumption here in the United States compounds the worldwide situation.

Today, the U.S. transportation sector—this includes air, boat, rail, and highway travel, all of our transportation sector—is 95-percent dependent on oil. Transportation accounts for two-thirds of our Nation's oil consumption and a quarter of our total energy use. While over the last 25 years the residential, the commercial, and industrial sectors have all been able to reduce their dependence on oil, the transportation sector consumption of oil has skyrocketed.

I show you this chart. This shows petroleum use increases mainly occurring in the transportation sector. This chart goes back 30 years—from 1970 to the year 2000—and then forward for 20 years. If you look at these other areas, it tries to show the industrial use, and the residential, commercial, or electric generation use of petroleum products. They are all relatively stable. The increases are not excessive in those areas. In fact, there are declines in electric generation and residential and commercial. But in transportation the increase is very substantial.

From the first gas price shock in 1973 until 1998, oil use for transportation grew an astounding 37 percent. If that is not bad enough, according to this chart from the Energy Information Agency—let me show you this second chart. The demand for oil in the transportation sector is anticipated to increase another 46 percent over the next 20 years.

Another key point from the chart is that over half of our oil consumption for transportation is used for light-duty vehicles; that is, passenger vehicles and pickup trucks. Today, more people are driving more miles in vehicles that use more fuel per mile. As you can see, unless something is done, our passenger cars will consume half again more fuel in 2020 than they do today.

I think all Senators agree on the need to reduce our dependence on imported oil. Today, America imports more than half of its oil. The cost of importing oil is a dangerous drag on our economy.

Reducing our dependence on imported oil is a daunting and long-term challenge that will require a variety of measures. Surely efforts to increase domestic production need to play a role in that strategy. However, I am afraid there is no silver bullet. Increased domestic production alone will not meet America's skyrocketing demand for oil.

With transportation accounting for two-thirds of our oil use, I believe the key is to reduce transportation demand through a wide range of measures, including technology advances that squeeze more useful energy out of every drop of oil.

That's where PNGV comes in. Started in 1993, PNGV brings together the expertise of the nation's colleges and universities, government agencies, national laboratories, suppliers, and the auto industry in a 10-year effort to dramatically improve the fuel efficiency of passenger vehicles. PNGV research efforts are focused on developing breakthrough technologies that are key to improving fuel economy. Work is underway on lightweight materials, aerodynamics, tires, power electronics, energy storage, combustion science, fuel cells, and hybrid propulsion systems.

The long-term goal of the program is to develop mid-size passenger sedans with up to three-times better fuel economy in a vehicle that retains all the

performance, comfort, safety, and cost of today's comparable models.

In the past seven years, a number of PNGV's innovations have started to improve the fuel economy of today's production vehicles. Many of these innovations originated in our national laboratories. I am pleased to see our laboratories are playing a major role in PNGV. Let me cite a few examples of recent accomplishments:

One automaker is now using a technology developed at Sandia National Laboratories in Albuquerque, in my state of New Mexico, to produce axle shafts that are stronger, lighter, and less expensive.

The Pacific Northwest Laboratory in the Chairman's home state of Washington helped develop a hydroforming technique that is being used to shape door, deck and hood panels in current model vehicles.

Using analytical methods developed at Oak Ridge National Laboratory, automakers are now producing pickup truck boxes from lightweight composite materials.

And Los Alamos National Laboratory, also in my state, is one of the world leaders in fuel cell technology. Through PNGV, the lab's unique capabilities are being brought to bear on what may well be the automobile technology of the future. A fuel cell offers the highest possible efficiency with near zero emissions—certainly a goal worth striving for.

In addition to producing immediate fuel savings, PNGV is a program that is meeting its milestones. Earlier this year, and on schedule, all three domestic automakers rolled out high efficiency concept vehicles: the Ford Prodigy, DaimlerChrysler's ESX–3, and GM's Precept. These cars demonstrated, for the first time, the technical feasibility of a 5-passenger, 80-mile per gallon vehicle. This is truly a remarkable achievement.

I believe all Senators agree that the views of the National Academy of Sciences carry considerable weight in this body. Just last month, the Academy's National Research Council completed its sixth annual review of PNGV. It had this to say about the program:

Though confronted with enormous technological problems, PNGV has made significant progress in meeting its objectives, and reaching the 2000 milestones represents an outstanding effort.

I ask unanimous consent that a summary of the National Research Council's sixth report on PNGV be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, the NRC's report went on to describe the major challenges that remain in the final four years of the program. PNGV's goal is ambitious but achievable: to develop production vehicles that meet all safety and emissions standards while simultaneously maintaining current vehicle cost levels. The increase in federal funding in the bill before us today will help ensure that PNGV can meet its goal.

Last month, Chairman GORTON lead a debate here on the Senate floor about fuel efficiency standards, and I want to thank him for his effort. I do believe it is an important issue. How ever that debate eventually plays out, it should be clear that we are not going to be able to reduce our dangerous dependence on imported foreign oil without vehicles that are more efficient. And the American public is not going to stand for vehicles that do not provide the same levels of safety, comfort, and performance they've come to expect. That's exactly what PNGV is all about.

I'd like to make one last point. Both Europe and Japan have recently taken steps to raise the average fuel economy of their vehicles. In Europe, automakers are committed to increasing fuel economy by 33 percent by 2008. In Japan, fuel economy levels are set to increase 23 percent by 2010. I do believe fuel efficiency is an issue of international economic competitiveness. We must aggressively pursue efforts like PNGV, or risk falling behind in the global automotive market.

In closing, I am pleased that the Senate bill provides adequate funding for PNGV. However, I am concerned this year about maintaining the Senate's funding level for PNGV in conference. In what I believe was a very wrongheaded action, the House all but eliminated funding for this vital program. Mr. President, this is not the time to reduce our commitment to cutting-edge research that offers the promise of dramatic reductions in our need for oil. I hope all senators will want to work with the committee to maintain the Senate's funding level for PNGV as the bill moves to conference.

Mr. President, I ask unanimous consent that a letter from Secretary Richardson opposing the House's actions be printed the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. BINGAMAN. Mr. President, PNGV represents the best of America's minds working together on one of the most important issues we face today.

I again thank Chairman GORTON, and Senator BYRD for their work on this bill and especially for the funding they've provided for energy conservation and PNGV.

EXHIBIT I

[From the National Academies, June 15, 2000]

FUEL ECONOMY, COST MAY BE COMPROMISED TO MEET TOUGHER EMISSION STANDARDS IN NEXT-GENERATION CARS

WASHINGTON.—A public-private partnership to create a highly fuel-efficient car reached a major milestone earlier this year with the unveiling of concept vehicles, but the ability to meet both fuel-economy objectives and emission standards by a 2004 deadline remains a monumental challenge, says a new report from the National Academies' National Research Council.

The U.S. Environmental Protection Agency's new emissions standards for vehicle exhaust, which will be phased in beginning in 2004, are significantly more stringent than those that were in place when the public-private program, called the Partnership for a New Generation of Vehicles (PNGV), was initiated six years ago. All of the demonstrated concept vehicles—DaimlerChrysler's ESX3, Ford's Prodigy, and GM's Precept—use hybrid electric technology, which incorporates electric power from a battery with a small diesel engine. While the concept vehicles can achieve a fuel economy in the range of 70 to 80 miles per gallon, none meet the new emission standards.

''Though confronted with enormous technological problems, PNGV has made significant progress in meeting its objectives, and reaching the 2000 milestone represents an outstanding effort,'' said Trevor O. Jones, chair of the committee that wrote the report and chairman and chief executive officer of Biomec Inc., Cleveland. ''As the program moves toward the 2004 deadline to introduce production prototype vehicles, major attention will need to be devoted to meeting the new emissions standards while simultaneously attaining cost and fuel economy objectives, which continue to elude PNGV engineers.''

In the committee's judgment, EPA's ''Tier 2'' standards for nitrogen oxides and particulate matter will delay the use of the diesel engine—and its significant fuel-economy benefit—until systems can be developed that meet the new standards. PNGV also may have to shift its attention to other internal combustion engine designs with greater potential for extremely low emissions and high fuel efficiency.

The partnership should develop models that can predict the type and amount of emissions for a variety of engines and exhaust treatment systems in different versions of hybrid electric vehicles, the report says. These efforts will assist researchers in evaluating the feasibility of meeting the Tier 2 standards and provide data that could then be used to establish an appropriate plan for the next phase of the program.

Currently, fuel cells—an alternative power source—have the greatest potential to meet emissions standards and energy-efficiency requirements. All of the vehicle manufacturers are building concept vehicles powered by fuel cells that are estimated to get up to an equivalent of 100 mpg. Though notable progress has been made, the automotive fuel cell remains a long-range development facing significant hurdles, including the need to substantially reduce costs, which are running about five times higher than the program projected. The fuel cells are targeted for production automobiles sometime after 2004 by some vehicle builders.

New types of fuel and the infrastructure of refineries, distribution systems, and service stations are extremely important considerations in developing both internal combustion engines and fuel cells. The committee recommends that PNGV and the petroleum industry more fully address fuel issues and strengthen their cooperative programs.

As the program moves closer to commercially viable vehicles, the National Highway and Traffic Safety Administration should support major safety studies to determine how lightweight cars perform in collisions with heavier vehicles, the report says. These activities are critically important because PNGV vehicles, although similar in size to today's vehicles, will weigh much less with lighter bodies, frames, interior components, and window glass.

Although substantial accomplishments have been made, high cost is a serious problem in almost every area of the PNGV program, the committee said. The costs of most components of the concept vehicles are higher than their target values. For example, research continues to be conducted on aluminum and other composite materials for use in major vehicle components, but costs still are not competitive with steel. Battery costs are at least three times greater than the program's target. And DaimlerChrysler has estimated that its ESX3 concept vehicle would cost $7,500 more than a traditional vehicle in its class.

Given the complexity of the assignment and the tight timeline, the committee lauded PNGV's technical teams for their overall achievements and effectiveness in meeting project goals and their ability to develop solid industry-government-academia working relationships despite their competitive positions. And while the individual car manufacturers took different approaches in building their concept vehicles, all have made significant contributions and benefited by using technologies developed through the collaborative program. Further, many of the technologies—such as lightweight body materials—are being incorporated into vehicles that are in production today.

The Partnership for a New Generation of Vehicles is an alliance of U.S. government agencies and the U.S. Council for Automotive Research (USCAR), whose members are the country's three major automakers—DaimlerChrysler, Ford, and General Motors. PNGV was formed in late 1993 to develop an affordable midsize vehicle by 2004 with a fuel economy of up to 80 mpg—three times more efficient than today's vehicles—while meeting or exceeding government safety and emission requirements. Since 1994, the Research Council has conducted annual reviews of the program's goals and progress at the request of the U.S. Department of Commerce.

The study was sponsored by the U.S. departments of Commerce, Energy, and Transportation. The Research Council is the principal operating arm of the National Academy of Sciences and the National Academy of Engineering. It is a private, nonprofit institution that provides independent advice on science and technology issues under a congressional charter. A committee roster follows.

STANDING COMMITTEE TO REVIEW THE RESEARCH PROGRAM OF THE PARTNERSHIP FOR A NEW GENERATION OF VEHICLES

Trevor O. Jones (chair), Chair and Chief Executive Officer, Biomec Inc., Cleveland.

Craig Marks (vice chair), President, Creative Management Solutions, Bloomfield Hills, Mich.

William Agnew, Director, Programs and Plans, General Motors Research Laboratories (retired), Washington, Mich.

Alexis T. Bell, Professor, Department of Chemical Engineering, University of California, Berkeley.

W. Robert Epperly, President, Epperly Associates Inc., Mountain View, Calif.

David E. Foster, Professor, Department of Mechanical Engineering, University of Wisconsin, Madison.

Norman A. Gjostein, Clinical Professor of Engineering, University of Michigan, Dearborn.

David F. Hagen, General Manager of Alpha Simultaneous Engineering, Ford Technical Affairs, Ford Motor Co. (retired), Dearborn, Mich.

John B. Heywood, Sun Jae Professor of Mechanical Engineering, Massachusetts Institute of Technology, Cambridge.

Fritz Kalhammer, Consultant, Strategic Science and Technology, and Transportation Groups, and Former Vice President, Strategic Research and Development, Electric Power Research Institute, Palo Alto, Calif.

John G. Kassakian, Professor, Department of Electrical Engineering, and Director, Laboratory for Electromagnetic and Electronic Systems, Massachusetts Institute of Technology, Cambridge.

Harold H. Kung, Professor, Department of Chemical Engineering, Northwestern University, Evanston, Ill.

John Scott Newman, Professor, Department of Chemical Engineering, University of California, Berkeley.

Roberta Nichols, Manager, Electric Vehicles External Strategy and Planning Department, Ford Motor Co. (retired), Plymouth, Mich.

Vernon P. Roan, Professor of Mechanical Engineering, and Director, Center for Advanced Studies in Engineering, University of Florida, Palm Beach Gardens.

Research Council Staff

James Zucchetto, Director, Board on Energy and Environmental Systems.

EXHIBIT 2

THE SECRETARY OF ENERGY,
Washington, DC, June 15, 2000.

Hon. RALPH REGULA,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my concern regarding yesterday's House action to effectively terminate Partnership for a New Generation of Vehicles (PNGV) activities. I thank you for your efforts to defeat this amendment. I know you agree that especially now, during this current spike in energy prices, is not the time to reduce the U.S. commitment to cutting-edge research and development that will reduce our dependence on petroleum.

The Sununu amendment virtually eliminates the entire budget for the Partnership for a New Generation of Vehicles (PNGV). This is a matter of great concern to the Department, since PNGV has been a highly successful program aimed at reducing our country's growing consumption of petroleum products for transportation. As gasoline prices exceed $2.00 per gallon in the midwest, we are reminded that the United States has become increasingly vulnerable to oil price shocks and supply disruptions. Other impacts of this growing petroleum consumption are greater air pollution and increasing greenhouse gas emissions.

Technologies from PNGV results have already appeared in cars available for sale today. Earlier this year, the three PNGV year 2000 concept cars demonstrated the technical feasibility of 80 mile per gallon 5-passenger sedans. Each of these cars represents a unique approach to the challenges addressed by PNGV and showcases the progress made in advanced technology research and development through the partnership. The work is not finished, however.

Major challenges remain to be addressed during the final four years of this program, especially the size, weight, cost and emissions performance of individual components. The reliability of these technologies, both individually and in the context of a system, also needs to be demonstrated.

In its sixth review of the PNGV, released today, the National Research Council (NRC) notes that, measured against the magnitude of the challenge, ''PNGV is making good progress.'' The NRC characterizes meeting the PNGV 2000 concept vehicle milestone as ''an outstanding . . . effort.''

Given projections of substantial growth in the number of vehicles worldwide in the years ahead, combined with uncertainty about the ability of worldwide petroleum production to keep up, it would be extremely unwise to terminate this program that is key to developing high energy efficiency vehicles without compromising the features that make them attractive to U.S. consumers.

Also, it is vital, during a period of increasing worldwide competition to produce more fuel-efficient vehicles, that we maintain support for U.S. producers. In view of significant support being provided by governments in Europe and Japan, it seems particularly ill-advised for us to abandon our leadership. Any reduction in PNGV funding would jeopardize achievement of our objectives.

I appreciate your leadership in protecting energy research and development funding. If you have further questions, you may contact me or have a member of your staff contact Mr. John C. Angell, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586–5450.

Yours sincerely,

BILL RICHARDSON.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Washington.

Mr. GORTON. Mr. President, I compliment the Senator from New Mexico on his presentation and I ask if he will return to the two charts.

I appreciate the kind words of the Senator from New Mexico on this general field. My own view is we do need to do what we can to produce more petroleum products from sources that are within the control of the United States. I am convinced we also, in meeting this challenge, need to move aggressively toward the development and increased use of alternative fuels for our automobiles. Even if we are relatively successful in both of those courses of action, the challenge of an increased dependence and increased use of fossil fuels in transportation, or of even alternative fuels, is simply going to continue to grow.

The Senator from New Mexico, in stressing the importance of a greater degree of efficiency in the use of energy for transportation purposes, is directly on point. As he stated, this appropriations bill includes a modest increase in its appropriation for the Partnership for a New Generation of Vehicles, a program I have supported ever since I took the chairmanship of this subcommittee. I think it is very important to the country as a whole. I think it is a constructive partnership between government and the private sector.

I am delighted to have a Member speak on this specific element of the bill that I had to pass over rather quickly. The top line on the chart indicates the nature of the problem.

The Senator from New Mexico also mentioned my effort in a different appropriations bill, once again, to go back to mandated, better fuel efficiency standards on the part of automobiles and small trucks. That is at least a first cousin, if not closer, to the proposition to which the Senator from New Mexico is speaking.

If we are to be successful, if we are to turn that rapidly rising line in the chart and even flatten it out, it seems

to me we have to engage in all of these. The subject about which he spoke is particularly important.

I can assure the Senator from New Mexico that in a conference committee with the House on this subject, I will hold out as eloquently as I possibly can for the full Senate appropriation.

Mr. BINGAMAN. Mr. President, I respond by thanking the Senator from Washington for his comments and indicate that I think his leadership on this issue is extremely important, particularly so given the wrongheaded action the House of Representatives has taken in their bill of essentially zeroing out the funding for this very important program after 6 successful years of progress in a 10-year program.

I am encouraged by the Senator's statements. I will certainly do anything I can to assist the Senator in seeing to it that this is adequately funded in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I take a few minutes to comment on the bill and some of the areas of particular concern.

First, I recognize and thank the chairman and Senator BYRD for their good work. It is a tough job on any appropriations bill to hold down spending and keep it within the budget. Yet it is very difficult to set the priorities. This is one of the hardest jobs in the Congress. I appreciate the work they have done.

Particularly in this Interior bill, it is very hard to put together a bill that gets support throughout the entire Congress, representing all the States in the country, when a large part of the activity goes on, of course, in the public land States.

I want to comment on a few of those areas that are of particular concern to those who live in the West, where much of the State is owned by the Federal Government, ranging from 25 to nearly 90 percent of some States belonging to the Federal Government. Our economy, our future, all those things are tied very closely to what happens with the management of Federal lands. Much of that is within this budget of Interior.

I am particularly pleased, as chairman of the Subcommittee on National Parks, that the funding for national parks is in this budget, as well. Certainly we would all like to see as much support as possible for parks, but there is an increase here, as there has been over the past several years. There are some 379 parks in this country, national parks, all of which are quite different—from Yellowstone to the Statue of Liberty—parks that are unique.

The idea, of course, is to have the basic support for parks come from appropriations. We have developed over the past several years some alternative support, supplemental sources of funding that are not meant to replace, of course, but simply to supplement. These are such things as demonstration fees, which are then used in the park in which they are collected, or highway funds which come from the highways and go to the parks. I am thinking particularly in this case of Yellowstone Park, where highways are a very important part of their funding. Much of that goes there. We encourage contributions that can be made from the private sector.

There are several areas of concern, of course. One of them is PILT—payment in lieu of taxes. This is a program designed for a county where much of the land is owned by the Federal Government, where they would normally have real estate taxes that would come in through the operations of the county. Of course, when the Federal Government owns the land, those taxes are not collected and therefore this is a replacement and one that has been there for a very long time. It is quite important. It is very important because, in most cases, the counties provide the kinds of services on the public lands that they would provide on the private lands, even though the Federal Government, by its nature, does not pay the taxes. So these are payments that are made in lieu of.

There are some increases in this budget over the last year, but not nearly equal to the taxes that would be collected if the Federal Government did not own the land. So to the extent that is some measurement of fairness, then we are still quite below where we ought to be in the PILT area. We raised the authorization a number of years ago. Now it is tied to some kind of growth in the economy. We are, of course, quite below what the authorized level would be. We have some increases. We would like to have some consideration given to them.

Large amounts of land in Wyoming belong to the Federal Government—in the entire West. It creates some responsibility. Last week I met with county commissioners in Big Horn, WY, and their primary concern was what we are going to do with PILT because much of their county is Federal land. We have a unique relationship with the Federal Government. The Government depends on local communities to provide this infrastructure. Without the support of these counties, the Federal Government would be unable to manage theirs. I am talking about highways; I am talking about police protection; I am talking about health care and emergency care. All these things are provided without the basis of support that is usually there. So that is what the payment in lieu of taxes is all about. I know it is very difficult, but I think it is a program that merits some consideration and perhaps we will have the opportunity to increase those payments somewhat.

Actually, it is not confined to Western States. About 49 different States participate in the PILT program throughout the country, including the District of Columbia and three territories, so, of course, it is widespread in support.

Earlier this year, we had 57 Senators join in a letter supporting an increase in PILT funding. I will submit, a little later, for consideration some opportunity perhaps to give a little boost to that kind of funding. It is something that has a real meaning.

Let me give a little example. We have 23 counties in my State of Wyoming. Teton County is 96 percent Federally owned, Park County, 82 percent federally owned, on down the line; in Big Horn County, which I mentioned a little while ago, 80 percent of that county belongs to the Federal Government. It goes on. So I think there is a great deal of interest in that, and in the question of fairness.

Let me say, too, even though the appropriations are not actually the area where these kinds of decisions are often made, I think it is important to recognize this administration has made a drive towards the end. I understand the President is seeking to change the legacy to be one of a sort of Theodore Roosevelt thing, with land acquisition, the proposal to have 40 million acres roadless, in addition to the Antiquities Act and other things. This is going on currently.

One of the difficulties is not so much the idea of controlling roads. I have no problem with that. There should not be roads everywhere; we need to take a look at them. I am more concerned about the method in which it has been undertaken. Rather than having a major decision made by bureaucrats in Washington, we ought to go through the process. We have what are called forest studies over several years, and we have forest planning. That is where it ought to be done, so the people locally can participate.

We have talked about all the meetings we have had, and I have attended some of them, but the problem is, because this was done on a nationwide basis, hardly anyone who came to the meetings knew what they were talking about, including many of the people from the Forest Service. So there needs to be some real input. Perhaps there is something we can do to slow down that area.

Going back to parks, there are some 27 or 28 parks where one of the access functions that people enjoy is using snow machines in the wintertime in places such as Teton Park and Yellowstone Park and in Minnesota—there are a number there. Now we have another one of these bureaucratic kneejerk responses that we are going to eliminate the use of snowmobiles in national parks.

I do not argue there ought not be some control. There should be, and there can be. There ought to be some control over the machines themselves. The manufacturers have said they are willing to do that, to lower the noise and do something about the emissions. The problem is the EPA has never set up any standards with which they need to comply. I understand if you are going to put a great deal of money into

research to change these machines, you have to know where you need to be to be able to comply. We have never done this.

In addition, even though it seems as if a lot of people are using them, there are many fewer using the facilities in the wintertime. So it would have been possible, if the park had managed the snow machines rather than just letting them go, to separate the uses if they conflict with one another. If you have snow machines conflicting with cross-country skiers, in most parts you can have some space in between them. The park is never managed. Instead of seeking to manage these kinds of things, they simply say: Now we are going to do away with them.

The real issue there is access. Parks and public lands at least have two major functions. One is to preserve the resource. The second is to give the owners, who are the taxpayers, an opportunity to enjoy them. One of the ways of enjoying them is, in this case, a snow machine. Rather than simply eliminate it, it seems to me we ought to take a little bit more time and find some ways to fit that into what we are doing, whether it is used for hunting or hiking or sightseeing.

We were talking about energy over here. One of the reasons we are having energy problems is that our domestic production is down. One of the reasons it is down is we have made it more difficult to have access in the public lands. In Wyoming, that is a real problem because half the land belongs to the Federal Government.

So I think there are a lot of things we can do to be able to still protect the resource yet provide for multiple use of those resources.

Finally, there is grazing. A year ago, the Senate bill had language in it that if the Bureau of Land Management, didn't have the resources to go in and investigate and take a look at a grazing allotment—if the BLM did not get there, as they were supposed to, then they could cancel the allotment of this grazing. All we are saying is, when the BLM can't get to it, until they are able to, they ought to be able to go on as they have before, under their original contract. That is language that should be there. We would like to make sure it is there as we go through this.

Finally, there is a wild horse problem. We have a large number of wild horses in Wyoming. Not many people have to deal with that problem. The administration has requested $9 million for the next 4 years as part of an effort to bring the wild horses back to manageable levels. As a matter of fact, in the Red Desert of Wyoming, about 10 years ago, there was a lawsuit which required that these numbers be brought down. The BLM has never done that. Now they say: We can't do it unless we have some additional funding. The House funded the administration's request, but an amendment on the floor brought it down to $5 million. The Senate bill does not fund the administration's request. Now we have the possibility of BLM taking money away from other uses unless they have some more resources to handle these wild horses.

I hope we can talk about some of these issues. I understand they are unique problems. I do not think there are many wild horses in Rhode Island, but they are in other places. This is the kind of bill where we have to deal with the unique things that happen in the West.

Again, I appreciate very much the work of the chairman. I know he comes from a western State with a considerable amount of unique and public resources as well. I also know that he is very interested in dealing with them fairly.

I compliment that effort. I want to work with him to see if we can deal with some of these other unique problems that arise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. My colleague from Missouri is very gracious and I can do this in 30 seconds.

AMENDMENT NO. 3772

(Purpose: To increase funding for emergency expenses resulting from wind storms)

Mr. WELLSTONE. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. GRAMS, proposes an amendment numbered 3772.

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

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

The amendment is as follows:

On page 165, between lines 18 and 19, insert the following:

For an additional amount for emergency expenses resulting from damage from windstorms, $7,249,000 to become available upon enactment of this Act and, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that the President submits to Congress an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.): *Provided further*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

Mr. WELLSTONE. Mr. President, this amendment, again, is to restore $7.2 million in emergency funding. My colleague from Washington made a helpful suggestion. Senator GRAMS is coming back from Minnesota today. I believe we can do this together. I ask unanimous consent that my amendment be laid aside, and when Senator GRAMS comes back, we will talk tonight. We will both come out together. He will join me.

I thank my colleague from Washington and my colleague from West Virginia as well for their support. It is terribly important to get this additional money to deal with the blowdown. I thank my colleagues.

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

The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to proceed for 4 minutes as in morning business.

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

NATIONAL WOMEN'S SMALL BUSINESS SUMMIT REPORT

Mr. BOND. Mr. President, on a number of occasions, I have come to this floor to talk about the importance of women-owned businesses. Women-owned businesses employ more than 27.5 million people and generate over $3.6 billion in sales and have grown by 103 percent in the past 4 years.

As one of the fastest growing segments of the economy, women-owned small businesses are essential to America's future prosperity, as well as the prosperity and the well-being of the individual communities and particularly the families of those women who own businesses.

In recognition of this growth and contribution to our economic life, I convened with a bipartisan group of policymakers a national women's small business summit entitled ''New Leaders for a New Century,'' which was held in Kansas City, MO, on June 4 and 5 of this year. The cosponsors of that conference were my ranking member on the Small Business Committee, Senator JOHN KERRY, along with Senators DIANNE FEINSTEIN, KAY BAILEY HUTCHISON, OLYMPIA SNOWE, and MARY LANDRIEU.

Today I am very pleased to announce that we are releasing a report of the recommendations of the women who attended this summit. Copies will be available in every office. It will be available through the Small Business Committee, and later I will also ask that portions be printed in the RECORD.

Because the conference was designed to elicit directly the views, concerns, and policy recommendations of women business owners, we learned more about the obstacles women entrepreneurs face and the specific issues which are of the utmost importance to them.

It is interesting; what we learned is this: Despite the advances women have made in the entrepreneurial area, their top priorities remain, first, procuring their fair share of Federal contracts. We have already dealt with that on this floor, and in a bipartisan, overwhelming vote on a resolution said the Federal Government needs to live up to its legislatively mandated responsibility to set aside 5 percent of small

business contracts for women small business owners. They have not even come halfway to the goal.

Second, the women business owners who met with us are very much concerned about taxes. They said their top priority was getting rid of the death tax. Small business owners do not know when they will owe the estate or death tax or how much they will owe, so they have enormously high compliance costs.

A survey by the National Association of Women Business Owners found that the estate tax imposed almost $60,000 in death-tax-related cost on women business owners. That is not taxes imposed; that is how much it cost the average woman-owned small business to figure out what the death tax implication would be.

As a congressman colleague in Missouri once said, there ought be no taxation without respiration. That was the overwhelming view of the women in this conference.

In addition, the report outlines the women's views on what the Federal Government can do to help women entrepreneurs in areas such as access to capital, pensions and retirement, expanding markets, and health care. By asking women small business owners themselves to identify their professional concerns and make corresponding policy recommendations, we as policymakers, as legislators, should be able to craft our agenda much more effectively, and that agenda is oversight of the Small Business Administration and other Government agencies complying with the law, as well as legislative recommendations. This, we think, should facilitate even greater success on the part of current women small business owners and also offer incentives to more women to consider becoming business owners themselves.

Mr. President, I ask unanimous consent that the conclusion of the report be printed in the RECORD.

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

CONCLUSION

The Summit participants were a diverse group of experienced women business owners who presented their candid views in response to the challenge from the Summit's sponsors. The participants' discussions focused on a vast number of wide-ranging issues and problems in seven areas confronting women-owned small businesses. There was no script directing the agenda. The Summit was participant-driven—the participants identified problems, they formulated solutions, and they put the recommendations in priority order.

Each participant brought a unique perspective to the Summit. One half of all participants had companies that had been in business for at least 10 years. Eighty-six percent of the women small-business owners were between the ages of 35 and 64. These seasoned executives and entrepreneurs brought years of experience to the table, and they are the best source for ideas on and solutions to the pressing problems confronting women-owned businesses in America today.

The issue singled out as the top priority by the Summit participants were Federal procurement. The participants at the highly attended Procurement session made a series of 13 recommendations. From this list, the participants' number one priority was that Federal agencies must begin awarding 5% of their contract dollars to women-owned small businesses. This 5% goal was established by Congress in 1994, and Federal agencies have failed to reach even one-half of the goal—2.5%—every year since the goal was enacted into law.

The second highest-ranked priority area for women business owners was the availability of capital, with a particular emphasis on their inability to raise equity investment capital. For start-up and fast-growing companies, the ability to raise equity capital is often critical to building a successful business. Equity infusions are designed to strengthen a company's balance sheet, which enables it to borrow money from banks and other commercial lenders in order to meet the company's day-to-day operating needs. The door to equity capital has been effectively shut and locked for the vast majority of women business owners.

The Summit's goal was to ensure that the recommendations from the participants receive serious scrutiny from the 107th Congress and the new Administration as they are sworn-in this coming January. New incentives should be developed in some areas to help women-owned small businesses continue to thrive. But in other areas, government must simply stay out of the way and let these entrepreneurs do what they do best—run successful companies. At the same time, the heads of Federal agencies need to be held accountable when their agency fails to do its part under the law, such as with the requirement that the Federal government must award 5% of its contracts to women-owned small businesses.

With all of the participants' specific recommendations in each of the respective topic areas, the Congress and the Executive Branch have a new mandate—listen to what women shall-business owners have said and answer their call to action. In that vein, this report will be distributed to every Member of the United States Senate and House of Representatives and to the President of the United States in order to ensure that the Summit's recommendations are in the forefront of what needs to be done to help small businesses. The major issues singled out by the Summit participants must be the focus of the Congress and the Administration as they work to support and assist women-owned small businesses, which are so critical to the continued economic prosperity of this country.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2001—Continued

Mr. BOND. Mr. President, I thank my distinguished colleague, the chairman of the committee, for allowing me this time. I thank the ranking member, Senator BYRD, for having done an excellent job on this bill. There are many items in the bill before us that I, along with the Senator from Wyoming, believe are very important. We wish them Godspeed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE GREENBRIER

Mr. BYRD. Mr. President, tucked into a sheltered green valley in Southern West Virginia is a magical place, a place where fascinating history, natural majesty, and sumptuous comfort have combined since the first days of our nation's founding to create a spot that is justly world-renowned. That place, Mr. President, is called The Greenbrier, in White Sulphur Springs, West Virginia. It has been a special place for several decades now, overflowing with game for the Shawnee Indians, a spa since colonial days, a place of high society idylls and balls, fought over during the Civil War, a World War II diplomatic internment site and then a rest and recuperation hospital for wounded soldiers, and a secret government relocation site—all cloaked behind the well-bred, white-columned face of a grand southern belle of a resort.

Mr. President, in May, my wife Erma and I celebrated our 63rd anniversary. Erma is my childhood sweetheart, the former Erma Ora James. We have written a lot of history together over the past 63 years, and I could not ask for a better coauthor.

This year, as we have in the last several years, we celebrated at the fabled Greenbrier resort in White Sulphur Springs. I am certainly not original in my inspiration to celebrate moments of marital bliss there—President John Tyler, the first President to be married in office, spent part of his 1844 honeymoon in White Sulphur Springs. Actors Debbie Reynolds and Eddie Fisher spent part of their 1955 honeymoon there, and Mr. and Mrs. Joseph P. Kennedy arrived at the Greenbrier on October 11, 1914, for a two-week honeymoon. Many, many, other famous names are inscribed in the Greenbrier's guest register. The history that Erma and I have created together is a blink of the eye compared to that of The Greenbrier, whose healing waters were first enjoyed by hardy colonists in 1778, as they had been by Shawnee Indians for untold years before that.

The Greenbrier has been a resort almost since the day in 1778 that Mrs. Anderson, one of the first homesteaders in the Greenbrier area of the ''Endless Mountains,'' as the region was identified on colonial maps, first tested the wondrous mineral waters on her chronic rheumatism. Word of Mrs. Anderson's recovery spread rapidly, and numerous log cabins were soon erected near the spring. The ''summer season'' at the spring was born, albeit in a somewhat primitive state.

Still, the fame of the spring along Howard's Creek continued to spread. Thomas Jefferson mentioned ''Howard's Creek of Green Briar'' in his

''Notes on the State of Virginia'' in 1784; that same year, George Washington focused the Virginia legislature's attention on the commercial prospects of the ''Old State Road'' running between the Kanawha River valley, through The Greenbrier's lands, to the piedmont and tidewater sections of Virginia. Along the route of today's roadway between the hotel and the golf clubhouse stands a monument to this vision. The Buffalo Trail monument commemorates the point at which the pre-colonial Indian Buffalo Trail crossed the Allegheny Mountains on its way from the Atlantic Coast to Ohio. This trail became the James River and Kanawha Turnpike, which for over a century carried commerce and development from the settled East to the future states of West Virginia, Kentucky, Ohio, Indiana, Illinois, and Missouri. By 1809, a tavern with a dining room, a barn, a stable, mills, and numerous cabins constituted a hospitable stopping place along the still-rugged route West. And rheumatism sufferers were joined at this watering hole by others more interested in the creature comforts and social interaction than in relieving joint pain.

By 1815, the first spring house was built over the spring head, and a thriving resort was attracting visitors who typically stayed for several weeks at a time. A hotel and many surrounding cottages, some quite sumptuous, were erected over the years. Commodore Stephen Decatur, hero of the Barbary Wars, brought his wife for a 16-day stay in 1817, and Henry Clay of Kentucky, Speaker of the House of Representatives, spent some time at White Sulphur Springs during several summers over some 30 years. The cool mountain breezes under the shelter of ancient oaks, combined with stylish fans and gentle rocking chairs on a shady porch, made the Greenbrier a comfortable spot in those sweltering summers before air conditioning.

In many ways, the Greenbrier has changed little over the years. The gracious sweep of lawn, the stately trees, the ranks of white cottages and imposing hotel facades hark back to that earlier era. Many of the cottages, most too sumptuous to be called merely ''cottages,'' have their own special histories. One of the cottages was owned by Jerome Napoleon Bonaparte, who was a nephew of the French Emperor. General John J. Pershing, Commander of the Allied Forces in World War I completed his memoirs in the cottage named ''Top Notch.'' Early morning horseback rides are still popular, and Erma and I recently enjoyed the romantic carriage ride through the grounds. Hunting, fishing, and even falconry are still practiced. But more golf courses, tennis courts, and swimming pools encourage a more active lifestyle than in those early days. The Greenbrier is justly famous for its golf and for the Sam Snead Golf School. Though I do not play, I still enjoy the beautifully landscaped courses with their wide sweeps of lawn and water dotted with sandy island obstacles. The partaking of the sulfur water, that elemental component of the original spa experience, is now complemented by health and beauty facilities and services that pamper every part of you. A visit to the Greenbrier has grown ever more restorative over the years.

Henry Clay, that great man from Kentucky, the State of the Senator who now presides over the Senate with a dignity and degree of charm and skill and poise as rare as a day in June, often visited at the Greenbrier, as I have said.

Henry Clay was an early political fan of the Greenbrier, surely the most gracious and comfortable stopping place on his many trips between Washington and his home in Kentucky. Other well-known figures and luminaries who visited the resort prior to the Civil War were Presidents Martin Van Buren, Andrew Jackson, Millard Fillmore, Franklin Pierce, and James Buchanan. I have already noted that President John Tyler honeymooned at the Greenbrier. Dolly Madison, Daniel Webster, Davy Crockett, Francis Scott Key, and John C. Calhoun, and many other political notables have also contributed to engrossing dinner conversations there in more recent years, including Senate greats such as Everett Dirksen, Sam Ervin, Jacob Javits, and Barry Goldwater. Other politicians preferred the outstanding golf at the resort, including President Eisenhower, President Nixon (as a Vice President), and Vice President Hubert Humphrey. President Woodrow Wilson has also graced the Greenbrier, though I do not know if he was a golfer.

The Greenbrier has always been a favorite spot of other celebrities, as well. The Vanderbilts, Astors, Hearsts, Forbes, Luces, DuPonts, and the Kennedys have sojourned there, as did Prince Ranier and Princess Grace with their children Albert and Caroline. The Duke and Duchess of Windsor danced the night away in the grand ballroom. Bing Crosby has sung there, and Johnny Carson, Steve Allen, Dr. Norman Vincent Peale, Rudi Valle, Art Buchwald, Dr. Jonas Salk, Cyrus Eaton, and the Reverend Billy Graham have all made mealtime conversations there sparkle more than the crystal chandeliers in the dining room. Babe Ruth and Lou Gehrig are just two of the sporting greats who have autographed the guest register. Clare Booth Luce wrote the first draft of her most enduring play, ''The Women'', during a three-day stay in 1936. Like Tennyson's brook, the fascinating list of notables could go on and on forever. People watching—that is watching people—has always been a spectator sport at Greenbrier functions!

The Greenbrier has experienced trauma as well as galas. During the Civil War, the Greenbrier's location astride a strategic rail line into Richmond, Virginia, put her in the line of fire. Troops were billeted in her guest rooms, but both sides spared a favorite pre-war vacation site and fighting raged along the Greenbrier River. Being in what became Southern West Virginia, during the debate over succession in 1863, the Greenbrier's fate as a West Virginia or a Virginia citizen was uncertain. I am surely glad that West Virginia was the winner!

During Reconstruction, the hotel's healing waters also helped to heal the wounds of war, as grand society from both sides of the conflict continued to meet at the Greenbrier. General Robert E. Lee was a frequent visitor. In General Robert E. Lee's single post-war political statement, he led a group of prominent Southern leaders vacationing at the Greenbrier in drafting and signing what became known as ''The White Sulphur Manifesto'' of 1868. This document, widely reprinted in newspapers across the country, declared that, in the minds of these men, questions of secession from the Union and slavery ''were decided by war,'' and that, upon the reestablishment of self-governance in the South, the Southern people would ''faithfully obey the Constitution and laws of the United States, treat the Negro populations with kindness and humanity and fulfill every duty incumbent on peaceful citizens, loyal to the Constitution of their country.'' The war was truly over.

In 1869, one of the most famous photographs ever taken at White Sulphur Springs included Robert E. Lee and a group of former Confederate Generals, among them Henry Wise of Virginia, P.G.T. Beauregard of Louisiana, and Bankhead Magruder of Virginia. Other ex-Confederate officers who visited the resort were Alexander Lawton of Georgia, Joseph Brent of Maryland, James Conner of South Carolina, Martin Gary of South Carolina, and Robert Lilley of Virginia. Former Union General William S. Rosecrans visited General Lee while Lee was vacationing one summer at the Greenbrier.

The Greenbrier has served the nation well in two other wars, as well—World War II and the Cold War. At the outbreak of World War II, the hotel served as a rather gilded cage for several thousand foreign diplomats and their families, from Germany, Italy, Hungary, Bulgaria, and, later, Japan. It was then taken over by the federal government for the Army's use as a rest and recuperation hospital for wounded soldiers, before returning, like the soldiers it housed, to civilian life.

Much has been made, in recent years, of the Greenbrier's secret life as a covert agent of the U.S. government. In 1992, the existence of an emergency government relocation center built secretly deep beneath the Greenbrier was revealed. The result of an extraordinary partnership between the CSX Corporation and the federal government, the bunker contained facilities to house and operate the entire United States Congress in the event of nuclear attack. It had its origin in plans created by President Eisenhower to ensure

the survival of the constitutional system of checks and balances. The President had to convince Congressional leaders, including Senate Majority Leader Lyndon B. Johnson, to go along with the plan, which was carried out in the greatest secrecy for over forty years. The secrecy was necessary, because the bunker at the Greenbrier was not designed to withstand a direct hit, but, rather, to ensure security through a combination of physical design and camouflage. The remote shelter of the West Virginia hills proved a perfect combination of cover, concealment, and denial.

Now, the bunker is open to the public for tours. It is fascinating to see the level of detail that was included in the bunker, but it is also sobering to reflect upon the real fear of Armageddon that existed in this country during those years and which justified this kind of contingency planning. As you finish the tour and return to the sunlit world of golf, lazy country walks, luxurious settings, and fine dining that is the hallmark of the Greenbrier experience, it is difficult to recall those not-so-distant times when school children practiced hiding under their desks in the event of a conventional or nuclear exchange.

I encourage my fellow Senators, and, indeed, anyone listening, to visit the Greenbrier, to tour the bunker, and to relish the history and the service that are so much a part of this precious piece of West Virginia. Avoid the current high gas prices and road congestion, and take the train as so many have before you. Leave steamy, contentious, Washington behind for a time, and step out at the Greenbrier's rail depot wondering at the beauty, the cool breezes that smell of fresh, clean air and wildflowers. Allow yourself to be swept along by the attentive, unobtrusive service of an earlier age and be deposited in a bright, flower-bedecked room before a pre-dinner stroll about the grounds. You will be walking with the celebrities of the past as you write a wonderful new chapter in your own history.

I was mentioning the Amtrak train. My recollection went back to a time in England when the distinguished Senator from Washington, SLADE GORTON, and his nice wife Sally, and Erma and I rode the train from London up to York. Oh, my, what a wonderful time we had in York, visiting through the countryside with its narrow roads and its hedges and having our meetings with the British. Those were most enjoyable days and memorable ones.

But riding the train in itself is a real treat. I like to ride trains, and I know SLADE GORTON does, too. Has he ever told about his bicycle journey across the United States? He and his wife and their children traveled by bicycle, a bicycle odyssey, across the United States of America, all the way from the Pacific to the Atlantic. That would be something worth reading about. Better still, talk with him in person about it.

I close with the immortal words and images of the poet William Wordsworth, who lived from 1770 to 1850, when the Greenbrier was yet in its early days. But his lines eloquently capture the sights one can now happen upon when strolling through the magical grounds of this wonderful outpost of gentle civilization amid the mountains, and they capture the happiness such beauty inspires:

I wandered lonely as a cloud
That floats on high o'er vales and hills,
When all at once I saw a crowd,
A host, of golden daffodils;
Beside the lake, beneath the trees,
Fluttering and dancing in the breeze.

Continuous as the stars that shine
And twinkle on the milky way,
They stretched in never-ending line
Along the margin of a bay:
Ten thousand saw I at a glance,
Tossing their heads in sprightly dance.

The waves beside them danced; but they
Out-did the sparkling waves in glee:
A poet could not but be gay,
In such a jocund company:
I gazed—and gazed—but little thought
What wealth the show to me had brought:

For oft, when on my couch I lie
In vacant or in pensive mood,
They flash upon that inward eye
Which is the bliss of solitude;
And then my heart with pleasure fills,
And dances with the daffodils.

Like the Greenbrier, the forests in West Virginia.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Tennessee.

Mr. THOMPSON. Madam President, I ask unanimous consent to speak for 20 minutes as in morning business.

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

Mr. THOMPSON. Madam President, I say to the Senator from West Virginia how much I appreciate that rendition and bringing us back to a better reality here from time to time.

I remember the comments by that same poet who once said:

Getting and spending, we lay waste our powers,
Little we see in nature that is ours.

I don't think anyone can ever say that about the senior Senator from West Virginia.

Mr. BYRD. He said, ''we lay waste our powers.'' But I can assure you that the Senator from Tennessee doesn't lay awaste his powers. He is a busy man, and he serves his country and his State in a great fashion.

I thank the Senator for his kind words.

Mr. THOMPSON. I appreciate that very much.

PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

Mr. THOMPSON. Madam President, I rose on the floor on June 22 to address a matter of great concern to everyone, the issue of proliferation of weapons of mass destruction.

A couple of years ago, I was watching late night television and ran across a seminar being conducted by former Senator Sam Nunn. Someone asked him during a question and answer period what he considered to be the greatest threat to the United States of America. He mentioned terrorism and the new emerging threat of weapons of mass destruction.

A short time after that, I was watching the Charlie Rose Show late one night with former Secretary of State Warren Christopher. When asked the same question, he gave the same answer: That post cold war, we have not concerned ourselves perhaps very much with some of these issues but that we should, and there are emerging threats out there.

I think the Senator from West Virginia is contemplating a proposal that deals with this very issue.

I have been specifically concerned with that issue with regard to China for a couple of reasons: One, they continue to lead the nations of the world in the proliferation of weapons of mass destruction, according to our intelligence community; two, because we are now getting ready to embark on the issue of permanent normal trade relations with China.

Many of us are free traders; many of us believe in open markets; many of us want to support that. I think the majority of the Senate certainly does. Is there not any better time, and is it not incumbent upon us in the same general timeframe and the same general debate, that we couldn't, shouldn't, consider something so vitally important to this country as the issue of our nuclear trading partner, that we are being asked to embrace in a new world regime, that sits with us on the Security Council of the United Nations? Is it too much to ask of them to cease this dangerous proliferation of weapons of mass destruction and the supplying of these rogue nations with weapons of mass destruction—be they chemical, biological, or nuclear—which pose a threat to us?

We are considering now the issue of the national missile defense system. Many people in this Nation, I think a majority of people in this Congress, are very concerned that we have no defense against such a terrorist attack, an accidental attack, an attack by a rogue nation with weapons of mass destruction, and that we need such a missile defense.

One of the primary reasons we need a national missile defense system has to do with the activities of the Chinese and their supplying of rogue nations with these materials, expertise, capabilities, military parts that have nuclear capabilities which we are so concerned that, by the year of 2005, could be turned against us. Must we not consider this as we consider permanent normal trade relations? As important as trade is, is it more important than our national security? I think that question answers itself.

I pointed out on June 22 that the Rumsfeld Commission reported in July

of 1998 that: China poses a threat as a significant proliferator of ballistic missiles, weapons of mass destruction, and enabling technology. The commission went on to say China's behavior thus far makes it appear unlikely that it will soon effectively reduce its country's sizable transfer of critical technologies, experts, or expertise to the emerging missile powers.

A little later, on June 22 of this year, the Far Eastern Economic Review reported:

Robert Einhorn, the U.S. Assistant Secretary of State for Nonproliferation, left Hong Kong on June 11 with a small delegation bound for Beijing.

The article said:

Neither the American nor Chinese side reported this trip. Einhorn is on a delicate mission to get a commitment from Beijing not to export missile technology and components to Iran and Pakistan.

It went on to say:

. . . U.S. intelligence reports suggest that China may have begun building a missile plant in Pakistan. If true, it would be the second Chinese-built plant there.

If that article is indeed true, it would certainly be consistent with what we know about other Chinese activities. There is a recent report that there is growing Chinese support for Libya and their missile program. We know they have supported the Iranian missile program. We know they have supported the North Korean missile program. So those are some of the things we discussed back on June 22.

Let's bring ourselves up to date now. Just this last Sunday, Sunday a week, July 2, the New York Times reported:

American intelligence agencies have told the Clinton administration and Congress that China has continued to aid Pakistan's effort to building long-range missiles that could carry nuclear weapons, according to several officials with access to intelligence reports.

The story goes on to say:

. . . how China stepped up the shipment of specialty steels, guidance systems, and technical expertise to Pakistan . . . since 1998.

That is very recent activity. Shipments to Pakistan have been continued over the past 8 to 18 months, according to this story.

This, of course, would be in violation of the Missile Technology Control Regime to which the Chinese Government agreed to adhere. Strangely enough, weeks ago, our Secretary of State praised the Chinese for complying with the MTCR. It is pretty obvious now they are not complying. Some answers need to be forthcoming from the Secretary of State with regard to that.

But things are more serious than that because we now know, because of these recent developments and, perhaps, because of some of the issues we are considering in this Senate, the administration sent another envoy to the Chinese for 2 days of talks concerning some of these proliferation problems. On July 9, we got a report back from that latest trip, where our people went over there to plead with the Chinese to change their behavior at a time when we are about to consider permanent normal trade relations. We have gotten the results back. According to the New York Times on July 9, this visiting American official, who is Mr. J.D. Holum, adviser to the Secretary of State on arms control, said:

After 2 days of talks, the Chinese would not allay concerns about recent Chinese help for Pakistan's ballistic missile program.

He is quoted here as saying:

We raised our concern that China has provided aid to Pakistan and other countries . . .

That is according to Mr. Holum.

The article goes on to say:

Some Chinese arms experts say that China is unlikely to promise to end exports of missile technology anytime soon because such trade, or the threat of it, gives China a bargaining chip over the scale of American weapons sold to Taiwan.

Apparently, what the Chinese Government is saying is that as long as we assist Taiwan—which we are determined to do—for defensive purposes against the aggression of the Chinese Government, they are going to continue to assist these outlaw nations in their offensive designs that might be targeted toward the United States.

That bears some serious consideration. The Chinese Government is saying if you continue to be friendly with Taiwan and assist them in defending themselves against us, we are going to continue to make the world more dangerous for you and the rest of the world by continuing to assist these nations of great concern. We have to ask ourselves: Are we willing to acquiesce to that kind of blackmail? We have a policy with regard to Taiwan. It is well stated. Are we going to withdraw our support for Taiwan, which might assist in doing something about this proliferation? I don't think so. I would certainly oppose it. I think most every Member of this body would oppose that. So you can take that option off the table.

What are we going to do? The other option would be to continue to sit pat, continue our policy, and see the continued proliferation of weapons of mass destruction. We will try to build a missile defense system that will catch them. While they are building up over there, we will build up over here.

There is a third option, of course. That is to tell the Chinese Government that, yes, we will trade with you; yes, we want to engage with you; yes, we will help you see progress in human rights and other issues; yes, we acknowledge you have taken a lot of people out of poverty and opened up your markets somewhat; yes, we will do all those things, but if you continue to do things that pose a mortal threat to the United States of America, we will respond to that in an economic way. There will be consequences to you.

It does not have to be directly related to trade. We can do some other things that would not hurt our people. For example, the Chinese have access to our capital markets. They raise billions of dollars in our capital markets. It is free and open to them. It is not transparent at all. We don't know what they do with that money. Some people think they use it to build up their army. But Chinese interests raise billions of dollars in our capital markets. Should we allow them to continue to doing that when they are supplying these rogue nations with weapons that are a threat to us? It makes no sense at all.

Must we read in the paper someday that the North Koreans or the Iranians, sure enough, have a missile and have the nuclear capability of send a nuclear missile to the United States of America?

People say: They know they would be wiped off the face of the Earth. We could retaliate and they would never do something like that. No. 1, we made a lot of mistakes in this country by assuming other people think the same way we do. No. 2, I am not sure we are always going to be able to detect the source of a missile such as that. The United States would not likely, as some people say—having it trip off their tongue so easily—wipe a nation off the face of the Earth unless we were absolutely sure. So there is no need to go down that road. We must do something on the front end that will ameliorate the possibility of our ever getting into that situation and that condition. That is why 17 of my colleagues and I have proposed a bill called the Chinese Nonproliferation Act, which basically calls for an annual assessment of the activities of the Chinese Government and Chinese Government-controlled entities within China, to see how they are doing on a yearly basis in terms of their proliferation activity. Then, if there is a finding that they continue their proliferation activity, the President has the authority to take action.

I believe that is the least we can do under the circumstances. Our bill has become quite controversial because many people think it complicates the issue of permanent normal trade relations with China. They do not want to do anything—No. 1, they say—to hurt our exporters. We have made changes. No one can arguably say our bill hurts U.S. exporters now. We don't want to hurt our agricultural industry. We have made changes to accommodate that concern. We are not designing this in order to hurt our agricultural industry, so that is not an issue anymore.

When you get right down to it, the opponents of this bill are primarily concerned about doing anything to agitate the Chinese at a time in which we are trying to get permanent normal trade relations passed. I don't think we ought to gratuitously aggravate them. But if we are not prepared to risk the displeasure of a nation that is doing things that pose a mortal threat to our national security, what are we prepared to do?

What is more important than that? I am not saying let's cut off trade with

them. I am not saying let's take action against them for precipitous reasons or reasons that are not well thought out. I am saying we must respond to these continued reports from the Rumsfeld Commission, from the Cox Commission, from our biennial intelligence assessments, from these reports from our own envoys coming back saying the Chinese are basically telling us to get lost. We know what they are doing, and they are apparently not even denying it anymore. And we are going to approve PNTR without even taking up this issue?

We are trying to get a vote on this bill. So far we have been unable to do so. I ask my colleagues to seriously consider what kind of signal we are going to be sending. We talk a lot about signals around here. I ask what kind of signal we are going to be sending to the Chinese Government, to our allies, to the rest of the world, if we are not willing to take steps to defend ourselves? A great country that is unwilling to defend itself will not be a great country forever.

I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT—Continued

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President, in less than 10 minutes, under the previous order, the Senate will move on to another subject. We have completed opening statements on the Interior appropriations bill. The two Senators from Minnesota have offered an amendment, and we have had notice of several others.

This is simply to announce to my colleagues that sometime tomorrow—I hope relatively early tomorrow—we trust we will be in a position to make a unanimous consent request stating that there is a deadline for the filing of amendments. I do believe we will be able to begin to discuss actual amendments fairly promptly tomorrow morning, but as the majority leader said, in the evenings from now on, we will move to the Defense authorization bill. So Members who wish their amendments to be considered should notify both managers as promptly as possible, should file those amendments as promptly as possible, and should begin to arrange with the managers for times relatively convenient to all concerned to bring them up.

The majority leader would like to finish this bill tomorrow. I must say that I join him fervently in that wish, a wish that is not, however, a prediction. Nonetheless, a great deal remains to be done this week. The more promptly Members can come to the floor with their amendments and see whether or not we can deal with them informally or whether they will require a vote the better off all Members of the Senate will be. It is doubtful we will get anything more accomplished between now and 3:30, however. So at this point I will suggest the absence of a quorum and will ask that it be called off at 3:30 so we can move to the next matter of business. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Madam President, I will use my leader time to make a couple of comments.

SENATE AGENDA

Mr. DASCHLE. Madam President, I welcome everyone back from our week away for the Fourth of July recess. I did not have an opportunity to talk this morning with the majority leader, and I understand he was able to come to the floor and indicate there is a lot of work to be done, and I share his view about the extent to which work should be done.

I hope we can work as productively this coming work period as we worked in the last work period. We had an arrangement that I think worked very well following an unfortunate confrontation prior to the time we went away for the Memorial Day recess. The cooperation and partnership that was demonstrated over this last work period is one that I hope we can model again.

I say that because I am concerned about the precarious way with which we are starting this week. Senator LOTT has filed a cloture motion on the motion to proceed to the estate tax, and then it is my understanding his intention is to file a cloture motion on the bill itself. I remind my colleagues that is exactly what got us into the position we were in prior to the Memorial Day recess. I hope we can work through that.

I have offered Senator LOTT a limit on the number of amendments to the estate tax bill and a time limit on the amendment. I am very disappointed that we are not able to do what we have been able to do on so many bills, and that is reach some sort of accommodation for both sides. We still have some time this week, and I am hopeful that will happen.

Let me also say that I am increasingly not only concerned but alarmed that we have yet to schedule a date certain for the consideration of permanent normal trade relations with China. I had a clear understanding we would take up the bill this month. Yet I am told now that at a Republican staff meeting today there was a good deal of discussion about the need to move it to September.

I inform my colleagues that we will ask unanimous consent to take up PNTR. If that fails, at some point this week, we will actually make a motion to proceed to PNTR by a time certain this month. We cannot fail to act on that issue any longer. We must act. So we will make that motion to proceed to PNTR if the majority leader chooses not to make the motion for whatever reason.

I will also say that, as he has indicated, there is a good deal of business left undone that, for whatever reason, has been blocked by some of our colleagues on the other side. We will want to address those issues as well.

We will offer a motion to proceed to the Patients' Bill of Rights. We will certainly want to do that, as well as prescription drugs, minimum wage, and a number of issues relating to common sense gun legislation, such as closing the so-called gun show loophole and dealing with the incremental approaches to gun safety that the Senate supported as part of the juvenile justice bill.

I will say, we will also want to move to proceed to the H–1B legislation that passed in the House overwhelmingly. We want to be able to offer amendments. We would like to take it up. It should happen this week; if not this week, next week. But we ought to take up H–1B as well.

You could call this week the ''Trillion Dollar Week,'' the Trillion Dollar Week because our Republican colleagues are choosing to ignore all of the legislation I have just noted, given the limited time we have, and instead commit this country to $1 trillion in two tax cuts relating, first, to the marriage penalty, which we are told by CBO would cost a little over $250 billion over a 10-year period of time; and the estate tax repeal, which, over a fully implemented 10-year period, costs $750 billion.

That is $1 trillion dealing with just two issues: the estate tax and the marriage penalty. It does not even go to the array of other tax-related questions that some of our Republican colleagues have addressed in the past. We could be up into $3 or $4 trillion worth of tax cuts if all of the tax proposals made by our Republican colleagues were enacted. But we may want to call this the ''Trillion Dollar Week'' if our Republican colleagues have their way: $750 billion on the estate tax; $250 billion on the marriage tax penalty—and, I will say, $1 trillion, with very limited debate, with no real opportunity to offer amendments, with no real suggestion about whether or not we ought to have at least the right to offer alternatives to spending that much money.

The Democrats believe very strongly in the need to ensure that small businesses and farms are protected and that the ability is provided to transfer small businesses and farms. But we can do that for a lot less than $750 billion. We believe very strongly in the importance of the elimination of the marriage tax penalty. But we do not have to spend $250 billion to deal with it.

In fact, the regular order right now is the marriage tax penalty. We have offered a limit on amendments, a limit on time on those 10 amendments. We could take it up and deal with it this week—or could have last week, last month, the month before. Instead, what our Republicans colleagues are doing—and, I might add, all the time calling for our cooperation—is saying: No, we are not going to do that. We are not going to give you relevant amendments on the marriage penalty. We are going to go to the first reconciliation bill so you can't have amendments. We are going to take up the bill that way. But we still want your cooperation.

Now we are told that we will have an opportunity to vote on cloture because we are given the same mandate, the same ultimatum, when it comes to amendments on estate taxes.

So let me end where I started. I really do hope that we can have as productive a time this coming month as we had last month. I thought it was a good month. But I must say, this is a precarious beginning with this Trillion Dollar Week. It is a precarious beginning when, with all of the people's business the majority leader referred to, we are not actually going to deal with the people's business. We are going to deal with 2 percent of the population affected by the estate tax, and we are going to deal with a marriage penalty bill that goes way beyond repealing the marriage penalty, that actually gives a bonus to some taxpayers, all the time denying Democratic Senators the right to offer amendments on other directions that we might take.

So I look forward to talking and working with the majority leader, and I look forward to a good and rigorous debate about all of the issues having to do with the people's business.

Mr. REID. Would the Senator yield for a question before he yields the floor?

Mr. DASCHLE. I would be happy to yield to the assistant Democratic leader.

Mr. REID. I have listened to the Democratic leader outline what we have not been able to do. I fully support, as does the entire Democratic caucus, what the Senator is trying to accomplish. The one thing the Democratic leader did not mention, though, I say to my leader—there has been a tremendous furor from the Republican side about how they want to help the high-tech community, but the one thing that has not been accomplished is a simple little bill to change the Export Administration Act so our high-tech industry can compete with the rest of the world.

As we speak, we are losing our business position in the world in selling computers. We lead the world in building and selling high-tech computers. That is being taken from us as a result of four or five people on the Republican side who are holding up this most important legislation.

I say to my leader, I hope this is something on which we can also move forward. We would be willing to debate it for 30 minutes, for an hour. There is all this talk about helping the high-tech industry. In my opinion, the most important thing we could do is to get some attention focused on what has not been done regarding the high-tech industry. H–1B visas, of course, that is important.

On the airplane ride back from Las Vegas, I had the good fortune to read a book the Democratic leader has already read and told me how much he has enjoyed called ''The New New Thing.'' That book indicates how important it is that we have the people to do the work of this scientific nature. We need to change the H–1B. We agree there. But we also need to change our ability to have more exports to improve our balance of trade.

I close by saying, 44 Senators are willing to come in early in the morning, to stay late at night, to give up our weekends, to do whatever is necessary these next 3 weeks to move this legislation the Democratic leader has outlined.

Mr. DASCHLE. The assistant Democratic leader has made a very important point. The list I referred to certainly is not all inclusive. He listed one important omission; that is the export administration bill. In fact, I do not know of anyone who has put more time in trying to get that bill scheduled than the assistant Democratic leader. I thank him publicly for his willingness to try to find a way with which to bring this legislation up.

He is absolutely right. As we consider our huge deficit in our balance of payments, it is the only real black eye we have in an otherwise extraordinary economic record. As we consider that, I cannot think of anything more important than ensuring we stay competitive in the international marketplace today. There is no better way to do that than to address export enhancement legislation, as the assistant Democratic leader has noted.

I also say to the assistant Democratic leader, today, again, the president of the U.S. Chamber of Commerce, Tom Donohue, has called upon the Senate to act. He has called upon the Senate to act on PNTR immediately. I am sure he would also call upon the Senate to act on the export administration bill.

But there is a growing crescendo of people out there concerned that this is a Senate which has done little, which has blocked the people's business, not enacted it. Prescription drugs, the Patients' Bill of Rights, the minimum wage, effective gun legislation, China PNTR, and H–1B—all of those ought to be done. All of those ought to be done this month. We will have very little time left when we get back after the August recess. So we have to make every day count. We want to work with the majority to make that happen.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF MADELYN R. CREEDON, OF INDIANA, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION

Mr. KYL. Madam President, on behalf of the leader, I ask unanimous consent that the Senate now proceed to executive session for the consideration of Calendar No. 473, the nomination of Madelyn Creedon to be Deputy Administrator for Defense Programs, under the terms of the consent agreement reached June 14.

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

The assistant legislative clerk read the nomination of Madelyn R. Creedon, of Indiana, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

Mr. KYL. Madam President, it is my intention in a moment to ask unanimous consent to speak on a different subject. Perhaps Senator LEVIN would like to comment briefly. I know he has a more lengthy statement he would like to make at a later time.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I thank my good friend from Arizona. I can withhold my statement. It is not that long, but I will be here in any event. I am happy to yield to Senator KYL for his statement on this or any other matter.

Mr. KYL. Mr. President, I ask unanimous consent to speak as in morning business.

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

THE DEATH TAX ELIMINATION ACT

Mr. KYL. Madam President, tomorrow the Senate is expected to vote on a motion to invoke cloture on the motion to proceed to the consideration of the House-passed Death Tax Elimination Act, H.R. 8. I want to take a few minutes today to explain a key element of that legislation, one that wasn't discussed much during the House debate but which I think is critical to Senators understanding actually how the legislation works.

The bill which passed the House on June 9 by a vote of 279–136—incidentally, 65 House Democrats joined Republicans in very bipartisan support for the bill—ultimately repeals the Federal estate tax. But the change in policy is really more substantial than just that. The details are very important because they offer a way for both

sides of the aisle to bridge past differences with respect to the estate tax, specifically with respect to how transfers at death are taxed.

Although it is true that H.R. 8, the bill that passed the House, would repeal the estate tax at the end of a 10-year phaseout period, the appreciation and inherited assets would not go untaxed. That is a very important point, Madam President. This is a departure from previous estate tax repeal proposals.

Under H.R. 8, a tax would still be imposed, but it would be imposed when the inherited property is sold; that is, after the income is actually realized, rather than at the artificial moment of death. The House bill, therefore, removes death from the calculation of the imposition of the tax. Earnings from an asset would be taxed the same whether the asset were earned or inherited.

The plan broadens the capital gains tax base by using the decedent's basis in the property to calculate the tax. That differs from current law where the basis can be stepped up to the fair market value at the time of death. In exchange for the broader tax base, a lower tax rate would apply. The capital gains tax rate would be the general rate that would apply.

I also note that a limited step-up in basis would be preserved to assure that small estates bear no new tax liability as a result of these changes.

What we have done is to ensure that nobody who would escape paying the estate tax would ever have to pay a capital gains tax on that amount of money, so everybody would be treated the same in terms of avoiding liability from any tax; and only those who choose to sell an asset at a later point in time, after the property is inherited, would pay a tax. They would pay a capital gains tax—a much lower rate than the estate tax—and they would have the benefit of an exemption even more generous from the estate tax today.

Here is how the bill would actually work. The estate tax would essentially be replaced by a capital gains tax. That tax would be imposed on the gain or the increase in value of the inherited property relative to its original basis or cost, plus any cost of improvements. As with the estate tax, as I said, there would be an amount of property exempt from taxation. In the case of the new capital gains tax, the exemption would be $1.3 million of gain. That is, the decedent's basis would be exempt, whatever that amount of money is, plus $1.3 million. That exemption would be divided among all of the heirs. Now, $1.3 million is the amount that can be currently shielded from the estate tax by family-owned businesses or farms. So we have provided a basic exemption here that is the same as the most generous exemption under today's law.

In addition to that, we provide an additional exemption. A surviving spouse will be entitled to $3 million more, in addition to the exemption I just mentioned; that means the decedent's basis—his cost of the property—plus $3 million for the property transferred by the decedent to him or her. For married couples, there is an additional $1.3 million in exempt gains that can be added for the second spouse, for a total exemption of $5.6 million above the decedent's basis in the property, $1.3 million for the first spouse, plus $1.3 million for the second spouse, plus $3 million for spousal transfers.

In each case, the exempt amount is added to the basis. It, of course, cannot exceed the fair market value of the property at the time of death. That is the way these exemptions add up. They provide a significant exemption from the payment of any capital gains tax even when the property was inherited and later sold.

Why is this change important? For one thing, it removes death as the trigger for the tax. That is the object that most of us want to achieve—to take death out of the equation. It is an artificial event. People are certainly not making plans based upon death. I don't think anybody can justify death being a taxable event. Ordinarily, we see taxable events as the earning of income, the gain of profit from an investment, the sale of property, and the result of income from that. Those are taxable kinds of events. Death is purely an artificial event which should not be a trigger for any payment of tax. In fact, we all appreciate that it creates a great hardship on families at the very time of death.

For example, frequently the owner of the business—the person who started the business—has to figure out at that very difficult time in their life how to pay the estate tax. Frequently, the only way to do that is actually to sell the business, sell the farm, or sell the assets in order to acquire enough liquid assets to pay the estate tax. It takes death out of the equation.

That is the first object of this. I think it is the most important.

But a tax would be imposed on the beneficiaries of an estate just as it would have been imposed if someone had realized a capital gain during his or her lifetime. The beneficiaries of an estate would not only inherit assets but they would also inherit the decedent's tax basis on that property. The trigger for the tax is, therefore, the sale of the assets and the realization of income. That is the appropriate time to levy a tax—not when someone dies.

Advocates of the death tax often note that it serves as a backstop for the income tax by imposing taxes at death on income that previously escaped taxation. They are referring to capital gains that have never been realized. It is theoretically possible for that to be the case, although it is ordinarily true that you have spent ordinary income to acquire an asset and you have already paid income taxes on that ordinary income. But for someone who may have come into property in some other way, there could theoretically be unrealized gains that would escape taxation, except for the proposal that we have.

It is true that under current law those gains, but for the estate tax, would go untaxed forever because of the step-up basis. In other words, under current law, you acquire the market value as of the date of death, and that is the value of the property. So if you later dispose of it, there is very little gain if you dispose of it quickly. But of course you have to pay a 55-percent or lower percent death tax on that property.

The House-passed bill addresses this concern of unrealized gains never being taxed head on. It not only eliminates the death tax but also the step-up basis. So unrealized gains will ultimately be taxed if and when the inherited property is sold off. Therefore, nothing escapes taxation.

This concept, I must confess, was one which I heard Senator MOYNIHAN talking about when I first presented the death tax repeal to the Finance Committee. There was some concern. While we all appreciate that it is not good tax policy to impose a tax at the time of death, there has to be some way to recapture a tax on these unrealized gains. This is the proposal that does that. Therefore, it is not only eminently fair but it conforms the tax policy for everyone—people who acquire a decedents' estate or people who simply earn money—and it doesn't contain this bad element of taxing at the time of death. Instead, when you make the economic decision to sell property you have inherited—if you make that decision—you know what the tax consequences are. You know how much income you are going to receive. You can figure out how much tax you are going to pay. If you decide to go ahead and sell at that point, then you pay a capital gains tax using the original basis. But it is your decision based upon your timing and your economic circumstance and not because of a fortuitous event of death.

It is interesting; President Clinton's fiscal year 2001 budget, on page 109 of the analytical perspectives, scores the existing step-up basis in capital gains and death at $28.2 billion in fiscal year 2001, and a total of $152.96 billion over 5 years. So elimination of the step-up basis as proposed in H.R. 8 can, therefore, be expected to recoup a portion of the revenue lost from the death tax repeal. That reduces the cost of the death tax repeal substantially.

To say it another way, when you eliminate the death tax altogether, you are eliminating all of that revenue. But if you come back and collect a capital gains tax using the original basis on any of the inherited assets that are later sold, the Federal Government is at least going to recoup some of that revenue. Will it be 40 percent? Will it be 30 percent? I don't know.

But it is interesting that the President's own people score the step-up

basis of capital gains at death at over $28 billion in fiscal year 2001. That is roughly the amount of the estate tax that is going to be collected.

So if you assume that all of the property would be immediately sold, then the Government theoretically would recoup all of that money.

That won't happen. Obviously, people will wait a while to sell assets. But the point is that it illustrates the Government is not going to have a total loss of revenue as a result of the repeal of the estate tax. There will be revenue coming in from the capital gains tax that replaces it.

I think whatever revenue losses are associated with repeal, of course, also needs to be put in perspective. This is the point that is most important to me.

The President's budget, on page 2, estimates that revenues for 2001 will amount to over $2 trillion, rising to $2.92 trillion—almost $3 trillion—by the year 2010, the year that the death tax repeal would actually be implemented. In other words, by 2010, the Federal Government will collect an additional $840 billion in just that 1 year. Surely, with an $840 billion surplus in just that tenth year that the estate tax is repealed, we can afford to eliminate this unfair tax and still satisfy pressing national needs with the additional $840 billion.

It is pretty clear when you put that in perspective that no one should vote against estate tax repeal on the basis that the Federal Government can't afford it. Clearly, it can afford it.

One final point: I call Senators' attention to a letter that should be reaching their offices from the National Association of Women Business Owners, or NAWBO as it is sometimes called. The organization is writing in very strong support of death tax elimination. They write that women business owners in the country employ one out of every four workers.

By the way, about half of the small businesses in the country are women owned. So this is a very important point to the National Association of Women Business Owners. It is one of the groups that very strongly supported us when we had the White House conference, and repeal of the death tax was No. 4 on the list of legislative items.

In any event, here is what they write with respect to the point that one out of over four workers, or about 27 million workers in the United States, are employed by women business owners:

When a woman-owned business has to be sold to pay the death tax, jobs are lost.

This was written by president Barbara Stanbridge and vice president for public policy, Sheila Brooks.

They say, ''on average, 39 jobs per business, or 11,000 jobs, have already been lost due to the planning and payment of the death tax.''

It is not only the payments that will suffer, but it is also the planning. The payments that go to the lawyers, estate planners, and insurance also increases expenses and results in job loss.

NAWBO projects on average 103 jobs per business—or a total of 28,000 jobs—will be lost as a result of the tax over the next 5 years.

Ms. Stanbridge and Ms. Brooks note that women businesses are just starting to grow. Many are first-generation businesses, and they have just begun to realize that, due to the death tax, their business will not be passed on to the next generation—at least not without a 55-percent estate tax and perhaps a 55-percent gift tax during life. Most of the businesses can't afford to pay the tax. As I said before, they are sold off frequently to big corporations that are not subject to the death tax.

Let me make this point.

I was asked by a reporter today what the original theory of death tax was. The reporter said it doesn't seem to make any sense. It doesn't make sense. But the original theory was they would prevent the accumulation of wealth. It was put in at a time when it was kind of the progressive or populist time, and there was a feeling that we should prevent the accumulation of wealth.

Let me give you a story of a friend of mine in Phoenix, AZ. He came to Arizona from New York and built a printing business. Eventually, he employed about 200 people. He was a very successful entrepreneur. A lot of people depended on Jerry Wisotsky, a pillar of the community, who contributed huge sums of money to all kinds of causes. He was a very rough and gruff guy on the exterior. On the interior, he had a heart of gold. He could not turn down any request for a charity in town. He was very generous. All of his family were. When he died, the family found that everything had been plowed back into the business—the latest of printing equipment and so on. He had no hard cash to pay the huge estate tax. They had to sell the business.

To whom did they sell it? It was some big conglomerate—a big German company, I think. But it was a big corporation.

So much for the death tax preventing the accumulation of wealth. It took a whole bunch of wealth from one family in Phoenix, AZ, and transferred it to a big international corporation.

It doesn't prevent the accumulation of wealth. It concentrates wealth in the big companies that end up being able to afford to buy the business—frequently at bargain basement prices. It is unfair. It is not good for communities.

I made the point about contributions of this one family. As I said, that family used to contribute to every charity in Arizona. They are still very generous, but they don't have the assets they used to have when Jerry owned the business. This argument that charities are going to suffer if we repeal the estate tax I know to be wrong.

I am waiting for the first executive director of some big charity organization in the community to come back to me and lobby against the repeal of the estate tax on the grounds that it will hurt contributions to charity. I will immediately call every member of that person's board of directors and say: Do you know what your hired person is lobbying for back here? They are lobbying to pay 55 percent of the estate tax to the U.S. Government because it might be an incentive to contribute more to their charity.

I think these folks will turn tail and go home. The reality is people who are big hearted will make big contributions, as the Wisotsky family, and they can do it if they have an income stream coming, rather than if they have to sell the business to somebody else.

I talked about the women-owned businesses. Minority-owned businesses are in the same position, which is why we have strong support from various minority business organizations. However, the point of repeal of the estate tax is it is in keeping with the American dream. The American dream is to work hard, be successful, and give your children a greater opportunity than you had. That is the American dream. The estate tax works counter to the American dream, the ability to pass on something to your children and grandchildren after you have worked very hard during your lifetime to save that money.

That is another point. The death tax penalizes savers. We talk about tax policy and trying to promote savings and investment. The estate tax is exactly contrary to that. On the one hand, the Federal Government seeks to encourage people to save through IRAs, Roth IRAs, 401(k)'s, education savings accounts, and lower tax rates on capital gains. Yet on the other hand, it penalizes savers upon their death with death tax rates as high as 55 percent.

Consider two couples with similar lifetime earnings. One spends lavishly during their lifetime and leaves only a small estate. That couple is not subject to the death tax. The second couple who foregoes lavish spending and sets money aside for family, for the future, for contingencies in the future—as the Government policy seeks to have them do—gets hit with a substantial tax on death degree. That is not right. It is not good tax policy or good national economic policy.

It is particularly not fair because there is a better way: Tax the gains when they are realized; don't tax at death. That is what the Death Tax Elimination Act is all about. I urge Senators to take a very close look at this when we have this issue of the cloture vote. Think very carefully about not allowing us to proceed. There is some notion that politically some people will want to use the death tax repeal legislation to offer all kinds of nongermane amendments to make whatever other points they may want to make. Everybody around here knows the Senate schedule is very tight. Everybody knows the death tax repeal is

extremely popular around the country. A very high percentage, 70 to 80 percent of the American people, support its repeal. It passed the House of Representatives. If everyone had been there, it would be a veto-proof vote. I believe it will be a veto-proof vote. It is pretty clear the death tax repeal is going to pass. It will be successful if it comes to a vote.

I don't know whether some people plan to play political games and use this vehicle to score political points on totally unrelated matters. I urge those Members to think very carefully about that strategy. If we are not able to get the clean version of the House bill, H.R. 8, to a vote, I will be standing on the floor pointing fingers at those people who have prevented the Senate from doing that. I think that is very fair. It is very appropriate.

The House of Representatives overwhelmingly repealed the death tax. The American people want it repealed. We will have an opportunity to consider it in the Senate. Those Senators who stand in the way of this, playing parliamentary games, using amendment tactics with amendments that are not germane to the estate tax, we are going to be on the floor pointing out the results of their efforts. If they stop this with those tactics, they will have to accept the consequences of their actions. It is fine with me to have people try to amend the bill. I don't think they will be successful. This bill, written by Chairman BILL ARCHER and Representative DUNN and others in the House of Representatives, including members of the minority, is very well put together. It reduces rates for the first 10 years and has a repeal at the end of the 10-year period. By then it is all gone. That should give everybody time to adjust to the fact that it is going to be repealed, however it will be repealed.

I hope my colleagues will not decide to try to derail the opportunity to repeal the death tax through a strategy either of denying cloture—in other words, the ability to bring the bill to a final vote on the floor of the Senate—or alternatively, to require the majority leader to agree to nongermane amendments, which obviously would sink the ship.

It is my understanding from talking to the majority leader today that he does not yet have an agreement to permit bringing the bill to the floor with a limited number of germane amendments, with a clear vote before the end of this week. If that can't be accomplished, we will have to move for cloture and we will have a cloture vote. I believe we will get cloture. When we do, then only germane amendments are allowed. There will be a vote by the end of the week. Members can't say they are for repeal of the death tax and then engage in tactics which prevent the Senate from ever getting to that vote.

Let me make a couple of other points. This is a very bipartisan approach both in terms of outside groups and the strong support we have had both in the House and in the Senate from Members on both side of the aisle. That is why I do not make a blanket action over who might use dilatory tactics. Many members of the minority are cosponsors of this legislation. When I originally developed this concept, Senator BOB KERREY of Nebraska was very supportive and immediately became a cosponsor of what is now known as the Kyl-Kerrey bill. We have 29 cosponsors. Frankly, we could have more. Nine are members of the minority party. The rest are members of the majority party.

Let me single out these members of the minority party who have been willing to support us. I am sure there will be more, but cosponsors include Senators BOB KERREY, JOHN BREAUX, CHUCK ROBB, BLANCHE LINCOLN, RON WYDEN, MARY LANDRIEU, MAX CLELAND, EVAN BAYH, and PATTY MURRAY. These are all Senators who I think have studied this and realize there is a tax on the unrealized gains incorporated in this bill, so it becomes a very fair bill just taking death out of the equation. I particularly thank those Senators for putting aside any partisanship in recognizing the importance of this repeal.

For those who are not totally familiar with the overall essence of the bill, let me describe the key elements of it.

As amended, H.R. 8 would, first, in the year 2001 convert the unified credit to a true exemption and repeal the so-called 5-percent bubble and expand the availability of qualified conservation easements. It would also repeal rates in excess of 53 percent in that first year.

Between 2002 and 2009 it would phase down the estate tax rates by 1 percent to 2 percent each year.

Third, in 2010 it would implement the Kyl-Kerrey language eliminating the death tax and implementing a carry-over-basis regime, as I discussed earlier.

Over the Fourth of July, I had occasion to attend some ceremonies and hear our Founding Fathers quoted. Of course Benjamin Franklin is always one of the most fun to quote, but he is one who, some 200 years ago, said: Nothing in this world is certain but death and taxes.

It should come as no surprise that after 200 years the Federal Government would find a way to put those two inevitabilities together to create a death tax which is not only confiscatory but also offensive to the American sense of fairness and also harmful to small business and to the economy. It was also harmful to the environment, and this is so because what happens is families find, in order to pay the tax, they have to sell land they would like to keep in the family for its environmental value. But they find they have to sell it to generate income. Inevitably what happens is the property is developed. That development is the reason why there are conservation groups who have also joined us in opposition to the estate tax and in favor of its repeal.

There is another point I want to mention. Opponents of our legislation say this only affects a few people. First of all, it is not true; it affects a lot of people. It is true in the end only a few people have to end up paying. But a lot of people have spent a lot of money preparing various tax shelters to escape the payment of the estate tax.

Who benefits, of course, are the lawyers and the estate tax planners and the insurance companies. I have nothing against any of those folks, but I don't think we need to create tax policy just to create jobs for lawyers. I am a lawyer. I know I always had plenty to do without having to get into this. So I don't think any of those folks would have real grounds for suggesting that in order to keep them in business we have to keep the estate tax. So it is not just the people who pay, it is also the people who have to try to avoid paying.

There is another thing. The Chair is well aware of this because she and I share the same concern about this problem, as a result of which I understand either tomorrow or Wednesday there is going to be a hearing before the Aging Committee, talking about senior citizens who end up getting bilked or scammed because of people who come to them and say to avoid the death tax they have to give them a bunch of money to set up some kind of trust to save their assets. Most of these people are people who would not have to pay the tax; their estates are just not big enough to be taxed. They fall within the exemption. But they are afraid. They have heard about this death tax and they are susceptible to these scams which take large amounts of money from them under the guise of estate planning which is not necessary for them.

So you not only have the people who have to pay the tax, you not only have the people who have to pay not to pay the tax, but you also have people who get scammed into paying some of these unscrupulous folks, setting up trusts they do not need because they would never be subject to the tax.

You also find—again I go back to the example I cited before—when businesses are sold, frequently jobs are lost, and those jobs are also affected, as I pointed out, by the reduced income from the businesses that have to prepare not to pay the tax. So it is just not true the tax only affects a limited number of people. In fact, I believe it was 3 years ago that we had the latest statistics for the amount of money spent to avoid paying the estate tax. It was almost exactly the same as the amount of tax paid in that particular year. In effect, it is a double taxation and a very inefficient tax when you have to pay that much money to avoid paying the tax.

Edward McCaffrey—I don't think he would mind me putting this label on him—who is a liberal, a professor of law at the University of Southern California, put it this way.

Polls and practices show that we like sin taxes, such as on alcohol and cigarettes. . . . The estate tax is an anti-sin, or virtue tax. It is a tax on work and savings without consumption, on thrift, on long-term savings.

He is exactly right. We may all be for sin taxes. But one of the reasons why the bulk of Americans, whether they will ever have to pay the tax or not, oppose the estate tax is they realize it is contrary to everything we believe in America. It is not a tax on sin; it is a tax on virtue—saving something for your kids when you die.

Let me also cite economists Henry Aaron and Alicia Munnell, making the very same point. Writing in a 1992 study, they said that death taxes:

[H]ave failed to achieve their intended purposes. They raise little revenue. They impose large excess burdens. They are unfair.

As I noted, opinion polls constantly show between 70 percent and 80 percent of Americans favor repeal of the death tax. When Californians had the chance to weigh in with a ballot proposition, they voted 2 to 1 to repeal their State's death tax. I think that is a very important point because that vote was very recent.

The legislatures of six other States have enacted legislation since 1997 that would either eliminate or significantly reduce the burden of their States' death taxes. In fact, the minority leader was here a moment ago. I note on the ballot in the home State of the distinguished minority leader, South Dakota, there will be a proposition this fall for the elimination of the death tax.

If you talk to the men and women who run small businesses around the country, if you talk to people who join in meetings, gatherings that I talk to all the time, you will find very strong support for repeal of the tax. Remember, it is a tax that is imposed on a family business when it is least able to afford the payment, on the death of the person with the greatest practical and institutional knowledge of that business' operations. That is the reason why so many businesses cannot make it to the second generation or the third.

I mentioned before the women- and minority-owned businesses. Instead of passing hard-earned and successful businesses on to the next generation, many of these families have had to sell their companies in order to pay the death tax. That certainly stops the upward mobility that is so important to some of these groups. It is why death tax repeal is supported by groups such as the National Association of Women Business Owners, the U.S. Hispanic Chamber of Commerce, the National Black Chamber of Commerce, the National Indian Business Association, and the National Association of Neighborhoods.

This is a very wide spectrum of organizations representing a very broad spectrum of the American community. I cannot think of a policy that has come to the Senate in recent times that has a more broad appeal to it than the repeal of this very unfortunate and unfair tax.

I mentioned before the argument about concentration of wealth. I just want to go back to that for a moment. There is a February 2000 study by the National Association of Women Business Owners, the Independent Women's Forum and the Center for the Study of Taxation combined. It found the death tax costs female entrepreneurs nearly $60,000 on death tax planning, obviously money they could use to put back into their businesses. They report that 39 jobs were lost per business due to the costs of death tax planning during the last 5 years. Think about that. Women business owners report that the cost of death tax planning will create 103 new jobs per business in the next 5 years.

Think about that statistic. Most of the businesses we think about are much smaller than that to begin with, but we know small businesses can grow to 200 or 300 employees if they are successful. These numbers are staggering when you stop to think about the amount of job loss that results, just from the costs of planning to avoid the estate tax. It is an incredible statistic.

There is a June 1999 survey of the impact of the death tax on family business employment levels in upstate New York which found that the average spending for death tax planning was as much as $125,000 per company. Think of that. For the 365 businesses surveyed, the total number of jobs lost already as a result of the cost of death tax planning was over 5,100 jobs.

The average estimated number of jobs these businesses would lose over the next 5 years if they actually had to pay the death tax exceeds 80 per business, with the numbers of jobs at risk at a minimum of 15,000 jobs. This is just among something like 300 companies in upstate New York. These are staggering statistics. If you expand that to the rest of the country, it is impossible to argue that the estate tax is not my problem, that it is just for a few rich folks. It affects everybody in this country.

What it suggests to me is that although it is paid by only a small number of individual taxpayers, it has a disproportionately large negative impact on the economy. As someone said, it is the tax with the longest shadow of any on the books.

The adverse consequences are compounded over time, too. A December 1998 report by the Joint Economic Committee concluded that the existence of a death tax in this century has reduced the stock of capital in the economy by nearly half a trillion dollars.

Think about what a half of a trillion dollars of capital stock infused into the economy in the future could mean. These surpluses that are projected now would be expanded even more significantly because the growth in capital would obviously provide a lot more return on investment.

It is really staggering when one stops to think about the impact of this one tax and how pernicious it is, all the way from the individual minority-owned business to the economy of the United States losing half a trillion dollars in capital stock. Just think, by repealing the death tax and putting those resources to better use, the joint committee estimates that as many as 240,000 jobs could be created just over a period of 7 years. Americans would have an additional $24.4 billion in disposable personal income over that period of time. If we said to the American people: We have a great deal for you; how would you like another $25 billion in the next 7 years and all we have to do is repeal this tax that does not bring in revenues to the United States proportionate to the cost that it imposes on the economy, I think they would say that is a very good deal.

It seems to me almost all of the arguments for those who used to favor the tax have been pretty well laid to the side, and the only question now is how we are going to get this to a vote in the Senate and how we are then going to be able to send it to the President.

I mentioned the cost to the environment a moment ago. Maybe those who have in mind offering amendments would like to consider this for just a moment: An increasing number of families who own environmentally sensitive lands, as I said before, have had to sell property for development to raise the money to pay the death tax, which destroys natural habitats as a result. With that in mind, Michael Bean of The Nature Conservancy observed that the death tax is highly regressive in the sense that it encourages the destruction of ecologically important land. So maybe folks who were planning to speak in opposition to this would like to take that into consideration.

Because it tends to encourage development and sprawl, a lot of environmental organizations have endorsed its repeal. Among those organizations: The Izaak Walton League, the Wildlife Society, Quail Unlimited, the Wildlife Management Institute, and the International Association of Fish and Wildlife Agencies.

Incidentally, pending repeal in 2010, as I noted before, H.R. 8 expands the availability of qualified conservation easements, which is something I am sure all of these conservation organizations support.

For all of these reasons, it is going to be very hard to explain why we would not support repeal of this tax. It overwhelmingly passed in the House of Representatives.

The repeal portion of the death tax recaptures taxes on unrealized gains, something that had been a problem for some Members of the other side of the aisle. I understand why, and I was happy to include that compromise in this legislation, and Representative ARCHER did the same.

In the meantime, it enhances conservation easements, reduces rates. I really cannot think of a good argument against this. And yet constituents may ask: Why can't you get it to a vote? Why do you need to worry about this?

The reason is, frankly, because of the rules of the Senate, any Senator has the ability to raise nongermane matters until we have had a cloture motion voted on and approved. There are those who would like to take advantage of this opportunity to raise their favorite issue in that way. If enough people do that with these nongermane riders which we have all heard so much about, it can sink the ship that otherwise would carry the legislative business to the President for his signature.

I hope that will not happen. I hope very much we can reach an agreement to quickly take up and consider any amendments and then vote for the repeal of the estate tax, vote for the House-passed bill, H.R. 8. I hope we can do that tomorrow at the very latest. If we cannot, then obviously we are going to have to file cloture and have that vote on Thursday.

I encourage all of my colleagues to look at this legislation very carefully because there is some misinformation about it. I know I talked for some time today, but hopefully I have been able to answer some of the questions that have been raised in my remarks. I stand ready to work with Senators who want to understand better exactly what we are trying to do here, what the effect of it will be, and what the many organizations are that support this legislation because they are significant. I certainly hope they will make their feelings known during the course of the next few days, too, because it is important for our colleagues to understand the depth and breadth of support for repeal of the estate tax.

I conclude by thanking Senator LEVIN, again, for allowing me to take this time and to urge my colleagues to support H.R. 8, to agree to a time agreement that will enable us to take it up in a timely fashion, to get it disposed of with germane amendments as quickly as possible so we can have a vote on repeal sometime this week.

That is something the American people would feel very proud we accomplished. Everyone can go back to their constituencies and brag about it. It is not partisan; it is bipartisan. Republicans cannot brag they did it all alone because many Democrats in the House made it possible with a veto-proof margin. Without the support of our Democratic colleagues in the Senate, I know we would not have gotten this far today.

I am very hopeful people on both sides of the aisle will see not just the fairness of it but the political benefit in responding to our constituents, which is, after all, what we are supposed to be doing around here. We know they would like to see repeal, and I think it is time for us to show them we can get something done here; we can do this and not hide behind all of the usual parliamentary maneuvers that are so common in the Senate.

I am very hopeful we will be able to finish this bill by the end of this week, send it on to the President, and go back to our constituents and say we did something very important for them: We repealed the death tax.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NOMINATION OF MADELYN R. CREEDON, OF INDIANA, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION—Continued

Mr. LEVIN. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is the nomination of Madelyn Creedon to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

Mr. LEVIN. Madam President, I am pleased to come to the floor today and support the nomination of a very talented and a highly qualified member of the Armed Services Committee staff to be the Deputy Administrator for Defense Programs of the newly created National Nuclear Security Administration.

Madelyn Creedon has served her country for her entire professional life in a variety of important national security positions. She has served as Associate Deputy Secretary of Energy, working closely and directly with Deputy Secretary Charles Curtis. She was the general counsel for the Defense Base Closure and Realignment Commission, and she has served as minority counsel to the Committee on Armed Services and counsel under my predecessor, Senator Sam Nunn. She spent 10 years as a trial attorney in the Department of Energy.

Madelyn Creedon's nomination for this important position was unanimously reported to the full Senate by the Armed Services Committee on April 13. After working with her for more than 8 years on the Armed Services Committee, I know firsthand of her extraordinary understanding of the national security programs of the Department of Energy and of her passionate commitment to the success of these programs and to the national security of the United States.

There are few people who have Madelyn Creedon's depth of experience and her knowledge in the nuclear weapons programs of the Department of Energy.

Last month the Senate confirmed the nomination of Gen. John Gordon to be the Under Secretary of the Department of Energy and the head of the new National Nuclear Security Administration. All of us are aware of the significant challenges General Gordon is facing in this position. The Administrator of the new National Nuclear Security Administration is responsible for maintaining the safety, security and reliability of our Nation's nuclear warheads; for managing the Department of Energy laboratories; for cleaning up some of the worst environmental problems in the country; and for addressing security problems that continue to undermine pubic confidence in the Department of Energy. As one of the senior deputies in the National Nuclear Security Administration, Madelyn Creedon's knowledge and experience in all of these areas will be of great assistance in helping General Gordon address the challenges he is facing.

I had a discussion with General Gordon last week. He told me that he wants Madelyn Creedon to be his deputy Administrator for Defense Programs, and he is anxious for Madelyn Creedon to get to work as his Deputy Administrator.

Madelyn Creedon is well known and respected by Senators on both sides of the aisle. Prior to her confirmation hearing in the Armed Services Committee, Senator WARNER and I received a letter from Senator LUGAR. I would like to quote just a few sentences from Senator LUGAR's letter:

> As you know, Mr. Chairman, I am a strong supporter of U.S. nonproliferation efforts in the former Soviet Union. These programs have continually garnered bipartisan support because of the outstanding efforts of dedicated Members of Congress and staff on both sides of the aisle. Madelyn's efforts in this area have made tremendous contributions to the successful implementation of these important programs. Her oversight and legislative analyses of these programs have improved our country's national security. I am confident that she will provide the same level of expertise and dedication if confirmed as Deputy Administrator for Defense Programs at the Department of Energy.
>
> It is with great enthusiasm that I offer my strong support for Madelyn's nomination, and I am hopeful that members of the Armed Services Committee and the full Senate will concur.

Madam President, I ask unanimous consent that the full text of Senator LUGAR's letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. LEVIN. If confirmed today, I understand that Madelyn Creedon will be the first woman to be placed in charge of the safety and reliability of America's nuclear deterrent. I cannot imagine any individual who would be better qualified to handle this awesome responsibility. We will miss Madelyn Creedon on the Armed Services Committee, but I think we all know that the committee's and the Senate's loss will be the country's gain.

In closing, I first thank Madelyn Creedon for her dedicated service on the staff of the Armed Services Committee. I congratulate her on her nomination by the President to this important position in the Department of Energy. Finally, I thank Madelyn Creedon for her continued willingness to serve the country. And I thank her family—her husband Jim, her daughter Meredith, and her son John—for their sacrifices in supporting her in this demanding position.

EXHIBIT NO. 1

UNITED STATES SENATE,
Washington, DC, April 11, 2000.

Hon. JOHN WARNER,
Chairman,
Hon. CARL LEVIN,
Ranking Member, Committee on Armed Services, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN AND SENATOR LEVIN: I regret that I am unable to appear before your committee today to introduce a fellow Hoosier and offer my support for the nomination of Madelyn Creedon to the position of Deputy Administrator of Defense Programs at the Department of Energy. My responsibilities as Chairman of the Senate Agriculture Committee have required my presence at an important oversight hearing.

It is always a source of great pride to see Hoosiers making valuable contributions to our country's security. Madelyn has an outstanding record of service to the U.S. government. She has served with distinction as Associate Deputy Secretary for National Security Programs at the Department of Energy, as General Counsel for the Base Realignment and Closure Commission, and here in the Senate as Minority Council of the Senate Armed Services Committee. It has been in the fulfillment of this last assignment that I have had the opportunity to observe and work with Madelyn.

As you know, Mr. Chairman, I am a strong supporter of U.S. nonproliferation efforts in the former Soviet Union. These programs have continually garnered bipartisan support because of the outstanding efforts of dedicated Members of Congress and staff on both sides of the aisle. Madelyn's efforts in this area have made tremendous contributions to the successful implementation of these important programs. Her oversight and legislative analyses of these programs have improved our country's national security. I am confident that she will provide the same level of expertise and dedication if confirmed as Deputy Administrator for Defense Programs at the Department of Energy.

It is with great enthusiasm that I offer my strong support for Madelyn's nomination, and I am hopeful that members of the Armed Services Committee and the full Senate will concur.

Sincerely,

RICHARD G. LUGAR,
United States Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. It is good to see you, Madam President, and to be back today. I just arrived from New Mexico, which accounts for my failure to put a more conventional tie on, but if I took the time to do that I would have missed an opportunity to speak on this issue.

I am going to take a few minutes to discuss the way I see the matter, the pending nomination of Madelyn Creedon for Deputy Administrator of the National Nuclear Security Administration for Defense Programs.

Let me start by suggesting that everyone should know, and I believe the nominee understands, that she does not work for the Secretary of Energy. She works for the new National Nuclear Security Administrator for Defense Programs within the Department of Energy. We might hearken back to only a few months ago when we had a very lengthy, multiday debate with reference to what we should do to reorganize the Department of Energy in the aftermath of the Wen Ho Lee incident, and a very major report by the President's most significant security group headed by former Senator Warren Rudman of New Hampshire.

They recommended, and we adopted by law, a total reorganization within the Department of Energy of the matters that pertain to nuclear weaponry and nonproliferation on the basis that the Department of Energy had been built up just topsy-turvy and we had, within a very dysfunctional multilayered department, a most, most significant American concern, to wit: the nuclear weaponry of America. Believe it or not, a Department called Energy is in charge of the nuclear laboratories that produce all the science with reference to nuclear weapons and the three or four sites within America that used to produce weapons when we produced them. They are now part of a very dramatically changed effort called science-based stockpile stewardship, which means we are going to make every effort to make sure our nuclear weapons are safe and secure without ever doing another nuclear test. We are trying diligently to do that.

Now we have a new department within the Department. Let me repeat that, because we are having so much difficulty getting out the message that we have already created a new entity, just let it start working. It is called the National Nuclear Security Administration. It is a hard name. In fact, I remembered it by carrying around to hearings a coffee cup that had ''NNSA'' on it. Then I was able to remember the name. But across the country they were all asking about 6 weeks ago: What are we going to do in the aftermath of Wen Ho Lee, finding some other secrets that had been misplaced in very peculiar circumstances?

The first thing we ought to say is that we have already done something about it. We have created a semiautonomous agency that, in the not too distant future, will be running all of that. We have already selected the person in charge, thank God, a very distinguished general—that means he is a four-star—who was with the CIA, worked at Sandia National Laboratories and was an adviser to two Presidents on security. He has agreed to take this job. In other words, he will be running, within the Department of Energy, under his own power, all the nuclear weapons activities. This nominee will work for him.

It was very important that we find out, since he did not select her, whether he wanted her for this job. I would think that would be the most logical question we would have; if the new man, General Gordon, who is going to run this, was not part of her selection and she was going to be his deputy, we surely ought to ask: Do you want her?

So I am first reporting to the Senate that I had a responsibility of finding that out, because she also wanted to know.

I can report to the Senate that he said: As matters are going now, I would not want to stand in the way—in fact, I will support her confirmation by the Senate. So let's not expand much on that. Let's just say that the man for whom she will work, because he is going to be in charge of all this—she is not going to be working for the Secretary of Energy—has said: OK, even though I did not pick her, let's try her.

I also want to tell the Senate that she had a lot to do, staffwise, with opposing this new law. She was the one helping Senators who opposed the creation of the National Nuclear Security Administration. So I have talked with her at length and I have said: Will you enforce this law? And she said: I will.

Do you understand, you are working for the general who runs the new National Nuclear Security Administration?

She said: I do. I work for him. I will try to help him be a success.

Do you understand that the Secretary of Energy has created a number of positions that violate this law, to wit: He has put dual-hatted some people to work for him and the new man, when Congress did not intend that?

They intended that all the people who worked for the general worked only for him, not the Secretary; that there not be 10, 12, 14 people who worked for both of them.

She said: I understand that.

He said: Did you hear the Secretary of Energy say he would fight that no longer?

She said: I did.

Did you hear him say he would support amendments to totally clarify this so there are no dual-hatted people who worked for both the Secretary of Energy and the general in charge of trying to create some decent management within our nuclear weapons complex, including the laboratories and the manufacturing centers and the nonproliferation activities that go with the laboratories?

She said she understands that.

Everybody seems to be on board.

The problem is the general was just sworn in. There were a few months of

delay for various reasons, not the least of which was that right after signing the bill into law, the President and Secretary of Energy, Bill Richardson, did not seek to implement the law very quickly. As a matter of fact, they went very slowly.

We are now at a point where the general is in office, and he needs to build his team. She will be part of his team. If Senators are worried about whether she will work in that regard, they can vote for her or against her. I did not come to the floor to fight her nomination because I satisfied myself that she understood the law and pledged to enforce it and understood she worked for the general, not for the Secretary of Energy, for the foreseeable future. I do not know how long she will be in office. I do not know how long he will be in office, although we intend to make his term a 3-year term.

With that, and given this background, I will vote for her. I am clearly of the opinion she has sufficient talent and expertise based on background and who she worked for and what she did. I do say it will be very challenging, based on her experience, for her to truly help this general make this work because she will be working for him, a very distinguished American retiring from the Air Force where he was a four-star general to undertake this job. It was a true act of patriotism on his part. He decided to take one of the most challenging jobs in Government, hardly understood as of today. But I assume that if it all works out, he will be very well known in a few years. If it really works out, he will be known for having set the nuclear weapons part of our Government on the right path, with the right management, not only with reference to security—for that will be his job also—but he will set it on a management path that something as refined as our nuclear weapons should have in place for the American people.

That has not been the case. There have been at least three major studies just crying out for us to fix this, the last one done by the President's board on national security matters, headed by Warren Rudman with four other distinguished Americans, recommended this, and we helped draft the first law. We had five chairmen on the Republican side sponsoring the legislation which worked its way through the Senate and through the House and has now created this semiautonomous agency that I just described to the Senate and to those who are interested in where the security is going to come from for the nuclear weapons complex and our laboratories.

We have created a whole new management effort. It is not going to be setting new boxes within the Department of Energy, which I have predicted will never work, but rather a total semi-independent agency with its own national administrator who will have total power and control.

For those who are fearful of this, we have indicated on the environmental side that they must comply with NEPA, the National Environmental Policy Act. But as to other rules and regulations, it is clear they can make their own, consistent with good judgment, preserving and protecting the safety of our nuclear weapons and preservation of these great National Laboratories.

We banter around the security problems that have occurred, but everybody knows, since the Manhattan Project, we have always had the best—not the second best—we have had the very best laboratories in the world in charge of our nuclear designs, the nuclear weapons breakthroughs, and Los Alamos has always been the leader.

They are having problems. Instead of saying, here are new rules we are going to pass in Congress, let's just make sure we are going to give the new administrator of that semiautonomous agency, General Gordon, everything he needs to take it out from under the dysfunctional Department of Energy and run it in a semiautonomous manner as described by law.

Madelyn Creedon will be a big part of that. I came to the floor to speak so she will know that many of us have a genuine interest in this working, and we will have our minds and ears and eyes wide open and paying attention, and the Secretary of Energy knows we will, too. We want this general to have as much as he needs to do this job right. She will be his first assistant. Everybody should understand it is a big job.

I do not need anymore time. I yield the floor.

The PRESIDING OFFICER (Mr. L. CHAFEE). The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I thank my good friend from New Mexico for support of the Creedon nomination. It is important his support be there and his voting for her is a very significant step on his part. I know how deeply involved he is in the issue and how hard he fought for the creation of the semiautonomous agency, the National Nuclear Security Administration. She has satisfactorily assured him and all of us she will fully carry out this law.

As a matter of fact, when she was helping the staff when this bill was in the Senate, she helped us work out the bipartisan bill that passed the Senate by a vote of 97–1. The good Senator from New Mexico was very much in the forefront of that effort to create the bipartisan effort that we successfully created in the Senate. Again, there was only one vote against the bill as it passed the Senate, and she helped us perfect that bill. I want to give her some credit.

Perhaps even more importantly, the responsibility of whatever bumps that have been along this road are ours, not hers, because she staffs us. Just the way we want her to be the right arm of General Gordon, so she has been staffing us as well and carried out that role very well.

We are, as Senators, responsible for our staff's work. If there is disagreement on this with some of the difficulties in creation of this particular semiautonomous agency or in the way it has been implemented, those disagreements lie with the Secretary of Energy or, to the extent they are legislative, lie with perhaps some Senators but not surely with our staffs who are carrying out our wishes, as we want and expect her to carry out General Gordon's wishes.

Mr. DOMENICI. Mr. President, can I make sure the Senator from Michigan and I have one thing clear because he has been so honest with me once we got past this problem? We are both going to see to it, to the best of our ability, that the semiautonomous agency, as created by law, is carried out. He told us that the other day when he was meeting with Republicans.

I am very pleased because I think we all have to watch it. Clearly, General Gordon is going to need a lot of help. I think the Senator from Michigan would concur it is not easy to set up a semiautonomous agency within the Department of Energy. He told us: Let's go. And so did Senator LIEBERMAN: Let's get it done. Is that a fair assessment?

Mr. LEVIN. It is a fair assessment, and I think General Gordon is ready to have Madelyn there assisting him and will be a big boost. That is what he told me on the phone. The Senator from New Mexico recounted a conversation with General Gordon. I had a similar conversation with him. I wanted to be sure he truly wanted Madelyn Creedon because he was not the administrator at the time that nomination was forthcoming. I wanted to be sure he was, in fact, desirous of having her as his deputy, and he is so desirous and very much supports the nomination. We now can proceed to that vote, and, hopefully, she will receive an overwhelming vote of support.

Mr. BINGAMAN. Mr. President, I rise today to speak in support of Ms. Madelyn Creedon, who has been nominated by the President to become the Deputy Administrator for Defense Programs of the new National Nuclear Security Administration (NNSA) at the Department of Energy.

Ms. Creedon has a distinguished career with broad and deep experience regarding Department of Energy defense programs over which she will have oversight and management responsibilities in her position as ''second in command'' at the NNSA.

My colleagues should be aware that before joining the staff of the Armed Services Committee in 1990, Ms. Creedon worked for ten years with the Office of the General Counsel at the Department of Energy (DOE).

She returned to DOE after serving as counsel to the Armed Services Committee during 1990 through 1994 during which time she had oversight and review responsibilities of DOE national security and environmental programs.

At DOE, Ms. Creedon served as Associate Deputy Secretary of Energy for

National Security Programs from 1995 to 1997 when she resumed her position on the Armed Services Committee, once again with oversight responsibilities for DOE defense and environmental programs.

In short, Mr. President, Ms. Creedon's professional credentials for this position are impeccable.

Let me add, Mr. President, that I have worked closely with her during the past several years in my capacity as ranking member of the Strategic and Emerging Threats Subcommittees of the Armed Services Committee.

I've found Ms. Creedon to be fully knowledgeable about the issues we have discussed, and to be a person of sound judgment regarding possible solutions in the interest of improving our national security.

Her professional capabilities and commitment to public service and national security are plain to see for all of us on both sides of the aisle who have worked with her.

I strongly urge my colleagues to vote in favor of Ms. Creedon's nomination to assume this important new position as Deputy Administrator to NNSA. Her experience and know-how will be key to ensuring a smooth transition to a successful NNSA.

Mr. KYL. Mr. President, might I inquire either of the Chair or Senator LEVIN, is there time remaining or is the vote scheduled to occur right at 5:30?

The PRESIDING OFFICER. There is time remaining; 4 minutes on the Republican side.

Mr. KYL. In that event, Mr. President, I would like to conclude with some remarks in opposition to the nominee.

With all due respect to Senator LEVIN—he knows I have the utmost respect for him—I believe Madelyn Creedon is not qualified for this very important position, one of the most important positions in our Government. She has never held the kind of positions, as her predecessors have, that would qualify her to head this particular agency.

The Deputy Administrator for Defense Programs has the direct authority over the Directors of the three National Laboratories, the head of the Nevada Test Site, and the heads of the four nuclear weapons production facilities. This is the person who is in charge of our nuclear weapons production facilities, as well as the nuclear weapons laboratories and programs.

While Ms. Creedon has worked as Senator LEVIN's counsel, before that and in between working for Senator LEVIN, she has also served as general counsel on the Base Closure Commission. She also served for a little over a year as an assistant to the Deputy Secretary of Energy. And she was counsel for special litigation at the Department of Energy from 1980 to 1990.

She has never had the kind of educational background or administrative background that would qualify her for this position. The Deputy Administrator will be called upon to manage numerous large and very technically complex projects that are expanding the limits of America's scientific knowledge. Experience in managing large organizations and a technical background are highly desirable.

The previous holder of this position, for example, Dr. Victor Reis, has a Ph.D. in physics and previously headed the Defense Advanced Research Projects Agency—or DARPA, as we know it—and also served as Director of Defense Research and Engineering at the Department of Defense.

We have known for a long time that our nuclear weapons program has had great problems. With the appointment now of General Gordon to head the security side of this program, as Senator DOMENICI has just talked about, I think it is important that we have somebody really well qualified as the Deputy Administrator. I do not believe it is accurate to say that Ms. Creedon is his nominee. I think it is accurate to say he has no objection to her nomination.

But as was pointed out, her nomination was made prior to the time he took his position. While I am certain that her nomination will be confirmed here today, I think for those of us who believe very strongly in national security, a strong nuclear weapons program, and a future that will ensure that our weapons are safe and reliable, it requires us to vote ''no'' on a nomination which is clearly inferior.

There are 50 people who could readily be identified who have far superior qualifications to serve in this highly technical, very important post. For that reason, again, with all due deference to Senator LEVIN, and with deference to the nominee, I will be voting ''no'' and urging my colleagues to do the same.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Do I have 1 minute left?

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. LEVIN. I will just use one of my minutes to fill in part of the record, and then we want to proceed to a vote.

Madelyn Creedon has also served as Associate Deputy Secretary of Energy for National Security Programs. It is a very important part of her background where she worked directly with then-Deputy Secretary of Energy Charles Curtis. In addition to being minority counsel for the Armed Services Committee, she served as counsel under my predecessor, Senator Nunn, when he was chairman of the committee.

So there are some additional important facets of her experience. As the Senator from Arizona mentioned, and as the Senator from New Mexico mentioned, General Gordon, who is the new person to run the agency, to run this new semiautonomous entity, specifically told me not just that he has no objection, but he supports her being both appointed and confirmed, and he had no objection to my putting it that way.

So the person for whom we have voted and confirmed overwhelmingly to run this semiautonomous agency is anxious to get her on board and very much supports her nomination and confirmation.

With that, I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back any time we might have. I understand we will proceed to vote when time is yielded back.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Madelyn R. Creedon, of Indiana, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration? The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Illinois (Mr. FITZGERALD), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 30, as follows:

[Rollcall Vote No. 172 Ex.]

YEAS—54

Abraham	Domenici	Levin
Ashcroft	Dorgan	Lieberman
Baucus	Edwards	Lugar
Bayh	Feingold	Moynihan
Bingaman	Feinstein	Murray
Bond	Gorton	Reed
Boxer	Graham	Reid
Breaux	Hagel	Robb
Bryan	Hollings	Rockefeller
Burns	Hutchison	Roth
Byrd	Inouye	Sarbanes
Chafee, L.	Jeffords	Schumer
Cleland	Johnson	Snowe
Collins	Kennedy	Stevens
Conrad	Kerrey	Thurmond
Daschle	Kohl	Warner
DeWine	Landrieu	Wellstone
Dodd	Lautenberg	Wyden

NAYS—30

Allard	Cochran	Frist
Bennett	Coverdell	Gramm
Brownback	Craig	Grams
Bunning	Crapo	Grassley
Campbell	Enzi	Gregg

Hatch	Mack	Shelby
Helms	McConnell	Smith (NH)
Hutchinson	Nickles	Smith (OR)
Kyl	Roberts	Thomas
Lott	Sessions	Thompson

NOT VOTING—16

Akaka	Kerry	Santorum
Biden	Leahy	Specter
Durbin	Lincoln	Torricelli
Fitzgerald	McCain	Voinovich
Harkin	Mikulski	
Inhofe	Murkowski	

The nomination was confirmed.

Mr. LOTT. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDER OF BUSINESS

Mr. LOTT. Mr. President, what is the pending business now?

The PRESIDING OFFICER. Interior appropriations bill, H.R. 4578.

Mr. LOTT. I believe we are working to go forward tonight on the Defense authorization bill. I see the managers are on the floor, the chairman and ranking member, and I presume that will be something we can do around 6:30 or 7 o'clock.

I will check with the managers of the Interior appropriations bill and see if there is any further business they need to do on that bill tonight before we go to Defense authorization.

I see the distinguished Senator from West Virginia on the floor. As one of the managers, does Senator BYRD know if there is further business on the Interior appropriations bill tonight?

Mr. BYRD. Mr. President, in talking a little earlier with the distinguished Senator from Washington, Mr. GORTON, he indicated to me that we had completed our work today on that bill and we would be back on it tomorrow. I assume he did not anticipate anything further today.

Mr. LOTT. Mr. President, that was my understanding also, but I wanted to doublecheck. We will make one last check with Senator GORTON on that. We are hoping good progress can be made on the Interior appropriations bill tomorrow, hopefully even finish it tomorrow, if at all possible, and we will be glad to work with the managers on that.

I yield to Senator KENNEDY.

Mr. KENNEDY. I thank the leader.

Mr. LOTT. I yield to Senator KENNEDY.

Mr. KENNEDY. Just for a question.

As I understand it, the majority leader is going to propound a unanimous consent request to consider the Defense authorization bill. I will not object to that. But I hope the leader would consider moving back to the consideration of the Elementary and Secondary Education Act at an evening session following the disposition.

I do not want to object to moving to this particular proposal, but I expect to object to going to other proposals if we are not given at least some assurance that we are going to revisit the Elementary and Secondary Education Act.

I commend the leader for having the night sessions. I think this is challenging all of us. I think we ought to be responsive to that. I certainly welcome the leader's determination to move the process forward in the Senate, but I hope at least the leader could work out, with our leadership, some opportunity for an early return to the Elementary and Secondary Education Act.

I will not object on this particular request this evening, but I do want to indicate, as that debate is going on for tonight and tomorrow evening, I hope we will have the opportunity for the leader to speak with Senator DASCHLE and work out a process. If we are not going to do that, then I will be constrained to object in the future, until we have some opportunity, with certainty, of revisiting the elementary and secondary education legislation, which is so basic and fundamentally important to families in this country.

I thank the leader for yielding.

Mr. LOTT. Mr. President, if I could respond to Senator KENNEDY's question, first of all, I, too, would very much like to see us complete the Elementary and Secondary Education Act. The committee did very good work on that legislation. The Senate spent a week, over a week perhaps, having amendments offered and voted on.

With regard to the underlying Elementary and Secondary Education Act and other nongermane amendments that were offered, that delayed our ability to complete that legislation. But I feel very strongly about getting it done. I am very pleased with the condition the bill is in. I think it might be a good idea that we workout an arrangement on the Elementary and Secondary Education Act for next week, perhaps similar to what we have done with the DOD authorization bill, hoping to work on that bill tonight and having votes on amendments, if any are ordered, in the morning; the same thing tomorrow night with votes occurring the next morning. We could do the same thing on the Elementary and Secondary Education Act.

But there is a key thing here. On the Elementary and Secondary Education Act, some nongermane amendments were offered delaying our ability to complete our work on that, and some that were germane. But we reached a point where we needed to try to find an agreement to complete our work.

After being abused severely by both sides of the aisle, perhaps, depending on your point of view—the Defense authorization bill had all kinds of nongermane amendments offered to it—after a period of time, there was an agreement that we needed to see if we could complete action on this very important Department of Defense authorization bill; it provides very important changes in the law, things that cannot be done just with the Defense appropriations bill, including improvements in the health care benefits for our military men and women and their families, and our retirees. We have to do this bill to get it done.

Therefore, under the persistent leadership of the Senator from Virginia and the Senator from Michigan, the managers, we came to an agreement last week, a unanimous consent agreement, that nongermane amendments would not be offered any longer and all amendments had to be offered by the close of business Friday.

While they have a long list of amendments they have to work through, I am satisfied they can get it done now that they are focused on amendments related to the Department of Defense authorization bill.

I would be glad to pursue a similar type arrangement with the Democratic leadership, with Senator KENNEDY involved, where we could maybe get a list of amendments by the close of business Friday, work on the bill at night but limit it to germane amendments that could be debated and voted on and complete action, hopefully, in a relatively reasonable period of time.

Mr. KENNEDY. If the Senator can yield for a very brief observation?

Mr. LOTT. I yield to Senator KENNEDY.

Mr. KENNEDY. I think that is a very reasonable request, with the understanding that school safety and security is also of fundamental importance to families and to schools. I think we have had good debates on class size, on afterschool programs, on well-trained teachers, new technologies, on accountability, measures about training programs and other programs. We can debate all of those matters. If we do not have safety in the schools as well, those matters will have much less relevance than they otherwise might.

I guess we still have some differences with the majority leader on the issue of school safety. I think most parents in the country believe that is a relevant amendment. Under the particular procedures of the Senate, it might be declared not to be, but certainly I think, for most Members of the Senate, it would be.

I, for one, would be willing to let that decision be made by the Senate, if we could have a vote up or down on that issue, about whether it is relevant or not relevant. I have not mentioned it or talked it over with the sponsors of the amendment or the leader, but I would think we could have a judgment made on that by the Senate itself in a very quick order and have that resolved and then move to the other amendments, if it is agreeable with the majority leader.

Mr. LOTT. As I say, we will work with the Democratic leadership and see if we can work out an agreement similar to the one we have on the Department of Defense authorization bill.

Let me make it clear. Being the son of a schoolteacher—in public schools, I might add—I know the importance of safety. I also know the importance of discipline because I have been the beneficiary of discipline from my mother, the schoolteacher.

I also know Americans all over this country, in every State, would like to have our schools be safe and drug free. So the idea that we would have metal detector devices where that is called for in certain schools, and where we would have other efforts to make sure the schools are safer, that is something, certainly, we should all work toward. Hopefully, we could do that when we take up the legislation.

I understand there was a suggestion earlier that there had been some delay in calling up the legislation referred to generally as H–1B legislation, that is, S. 2045, which would allow for certain high-tech workers to come into the country on a limited basis and for a limited period of time, and that, for some reason, had not been called up because of something that we had not been doing.

Let me emphasize that I want this legislation to be considered. I would like us to move it as quickly as possible. The problem we got into earlier when we were trying to work out an agreement was we were told there would have to be numerous amendments—I don't know, six or eight amendments, that were nongermane that would be in order for us to consider this very important legislation that I think has bipartisan support and that many people in this country, in business and industry and high tech, say addresses a major problem because the number that is allowed is now being reached and we need this legislation. I want to make it very clear we are not only willing to move it; we are anxious.

I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 490, S. 2045, the H–1B legislation, and I further ask unanimous consent the committee substitute be agreed to, the bill be read the third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

Mr. REID. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say to my friend, the leader, I know how difficult his job is, but, in spite of the difficulty of his job, H–1B is something that we on the minority side believe should have its day in the Senate. I have been assigned by our leader to come up with a number of amendments on our side. We have whittled it down from 10. I think we could get back on six or seven amendments. We would have short time agreements on every one of those. Most of them would be relevant, would be germane. They relate to the subject at issue.

I say to my friend from Mississippi, it reminds me of Senator MOYNIHAN. He wrote a very nice piece called ''Defining Deviancy Down'' a few years ago, indicating although we believed some things were real bad, with the encroachment of time and change of mores, we started accepting those things that at one time were bad. That does not make it good that we are accepting it, but that is what Senator MOYNIHAN wrote about, and I am confident he was right.

I say to my friend, the majority leader, that is kind of what we have here—not defining deviancy, but defining Senate procedure down. We are not filibustering H–1B. We want to have this. We believe it could be completed in 1 day.

If you look at the definition of ''filibuster,'' we are not filibustering anything. This is the definition from the dictionary: The use of irregular or obstructive tactics, such as exceptionally long speeches by a member of a minority in a legislative assembly to prevent the adoption of a measure generally favored or to force a decision almost unanimously disliked.

We are not filibustering. We want H–1B to come before this body. We want to work with you. We agree it is important legislation, but can't we have a few amendments? We are going to have short time agreements. We are not asking that things that are not relevant be brought up. We have matters that relate to immigration in this country.

As I say, I have been given the assignment by our leader to see how we can squeeze down these amendments. I feel almost as if we have lost by doing this. We do not like that, but we have agreed to work with the leader and have a number of amendments, have time agreements, to move this legislation forward.

I hope the leader will allow us that luxury, and I say ''luxury'' in the sense recognizing what Senator MOYNIHAN wrote. A year or two ago, we would never have considered this because that was not the way we did things in the Senate. We believe matters should be brought up and handled as they have for over 200 years in this body, unless someone else wants to speak.

Mr. KENNEDY. Will the Senator yield?

Mr. REID. Reserving my objection.

Mr. KENNEDY. Will the Senator be willing to go to H–1B tonight, ask consent to go without the restrictions? I certainly urge our Democratic leadership to go to it. If he wants to go to it, let's go to H–1B.

Mr. REID. We have a number of amendments, I say to my friend from Massachusetts.

Mr. KENNEDY. Let the Senate work its will. He indicated he would. After he objects, our Democratic leader will ask to go to that, will move to go to H–1B, put it before the Senate, and let's go ahead and consider it.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I did ask consent, as a matter of fact. That is what the reservation is on: that we go to this bill, and we pass this bill tonight.

I might also add, earlier I asked consent that we go to the bill and that there be five relevant amendments on each side of the aisle, that second-degree amendments be in order, which would have brought it to 20 amendments, and that was objected to on the Democratic side of the aisle. Even the idea of 10 amendments with second-degree amendments in order was objected to.

First of all, I assume this is not controversial. I assume it has broad support on both sides of the aisle. I assume it is something the Senate wants to get done. That is all I am trying to do. I heard today the Democratic leaders saying they want to do this bill; that we were holding it up. I am trying to find a way to move it. Let me emphasize this, too.

Some people say: Why don't you just call it up and let it go the way Senators would like to handle it, amendments and everything else.

Here is what we have to do this week alone: The Interior appropriations bill; we are going to be doing the Defense authorization bill at night; we are going to have a procedure to finally eliminate the death tax; we are going to have a procedure to get a vote on eliminating the marriage penalty tax. That is all this week.

Also along the way, we are going to try to get an agreement to take up the Thompson nonproliferation language with regard to China so that we can find a time to go to the China PNTR bill. We also have to do the Agriculture appropriations bill, the energy and water appropriations bill, Housing and Urban Development and Veterans appropriations bill, the Commerce- State-Justice appropriations bill, and the DC appropriations bill.

We should do all of those before we recess for the August recess. We have done six so far, and that has been with a lot of cooperation on both sides and a lot of pushing and pleading because every time an appropriations bill is offered, 100 amendments appear. On the Defense authorization bill, I think there are 200 amendments.

As far as this job of trying to coordinate all these different interests being a problem, I do not view it that way. It is just we have to have some reasonable understanding of how we are going to proceed to get four major bills done this week, to get five more appropriations bills done before the August recess, to get the Thompson nonproliferation language considered, and to get the China PNTR legislation considered as soon as possible.

We would like to find a way to work in among that, maybe at night, the Elementary and Secondary Education Act. I would love to pass that legislation just as it is or even after some more amendments, but we have to find

a time. We can do that at night. We can work day and night for the next 3 weeks.

I would like to do the H–1B. I tried to offer an agreement that could have led to 20 amendments. That was objected to on the other side. I am trying to find a way to get all these good things done. I will continue to try and hopefully we will be able to work out an agreement to consider them all. These appropriations bills are high priority. That is the people's business.

If we do not get the appropriations bills done, Housing and Urban Development is going to have a problem with housing in which they are involved. The energy and water appropriations bill has a lot of very important energy-and-water-related issues. Certainly both sides of the aisle would like to see us get to the Agriculture appropriations bill at the earliest possible date, hopefully next Tuesday at the latest. Those are all the things we have to do.

I want to make sure—I am willing to go to H–1B right away, pass it or to get some agreement that will not take 3, 4 days on one bill in among all these other urgent bills we have to do.

Mr. REID. If my friend will allow me——

The PRESIDING OFFICER. Is there objection?

Mr. REID. If I may make a statement on my reservation. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. We really should have H–1B passed. It does not mean everybody is in favor of it, but it is something that needs to be done. It is very important legislation. We need to have the matter debated. I hope the leader will take back the colloquy today. The Senator misspoke. He said 20 amendments. I think he meant 10 amendments with five on each side. Ten on each side would be a deal. We can do that this instant. I think the majority leader made a mistake.

Mr. LOTT. Actually, it is five on each side, which would be 10, plus second-degree amendments would have been in order, which could have brought it to 20.

Mr. REID. I hope the Senator will withdraw his unanimous consent request; otherwise, we will object to it. We first should see if it can be brought up and debated as any other matter. I think I know the answer to that question. Then the Senator should review his suggestion that we have five amendments per side and, of course, if relevant includes immigration-related and training-related amendments, we may not be able to do five. But I did indicate to the Senator, we were already down to seven. We are down to seven amendments on our side. We would agree——

Mr. LOTT. Seven amendments on H–1B or seven amendments on estate tax.

Mr. REID. H–1B. We should revisit this issue. If the Senator wants to reintroduce his unanimous consent request tomorrow, fine. Let's see if we can come up with something that will meet the timeframe of what the majority leader wishes. As I have indicated, this is not my preference in doing business, but this legislation is very important, and I want to spread upon the RECORD the fact we are not trying to hold up this legislation. The minority wants to move forward, as Senator DASCHLE indicated today. If the Senator persists in his unanimous consent request, I will object. I hope the Senator will withdraw that and see if in the next 24 hours we can work something out on this important legislation.

Mr. LOTT. So the record will be clear, I am trying hard to find a way to get this considered. I won't insist on my unanimous consent request, but since we are working night and day and looking for ways to get these things done, if you are down to seven, if you can get it down to five relevant amendments, and we can continue to work on this, maybe this would be a bill we could do at night the third week, but we are willing to see if we can find a way to get it done.

Mr. REID. I think this is Mississippi math because we started at 10 and kind of split the difference.

Mr. LOTT. No, no. It was 5 and 5.

Mr. REID. No, but it was 10 on our side. We said 10; you said 5. But now I said we are down to 7.

Mr. LOTT. You are headed in the right direction. Just keep working. You are making progress.

Mr. REID. So I hope we can work something out on this. In the meantime, Mr. President——

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I am a little uncomfortable with the discussion here. The discussion is: Under what conditions will the majority leader allow us to consider this bill? I understand that amendments are inconvenient, but the rules of the Senate allow people to be elected to the Senate and offer amendments and consider legislation.

The unanimous consent request offered by the majority leader was to take up this bill and pass it without any discussion or any amendments. Now there is a negotiation here saying: Maybe I will allow it to be brought to the floor if the Senator from Nevada would, on behalf of his side, agree to no more than five amendments.

The fact is, it seems to me if we fretted a little less about what someone might do when they bring something to the floor and started working through it, it would probably take a whole lot less time.

I happen to be supportive of the H–1B legislation, but I am not very supportive of some notion of anybody in the Senate saying: Here are the conditions under which we will consider it—and only these conditions—and if you don't like it, we won't consider it.

I hope the Senator from Nevada—if the majority leader insists on his unanimous consent request—will make a unanimous consent request following that similar to the one suggested by the Senator from Massachusetts, a unanimous consent request to bring the issue to the floor under the regular order at this time.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

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

Mr. REID. If the Senator would withhold, I do ask unanimous consent that the H–1B legislation be brought before the Senate at this time, that we be allowed to proceed on that.

Mr. LOTT. Mr. President, I withhold that UC request I made, but I object to the one that was just made.

The PRESIDING OFFICER. Objection is heard.

MORNING BUSINESS

Mr. LOTT. Mr. President, I renew my unanimous consent request that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

Mr. WARNER. Mr. President, while the distinguished leader is on the floor, there was some hope we could bring up the military authorization bill tonight. Senator LEVIN and I consulted with you on this, I say to the majority leader. We will have for our joint leadership tomorrow a list of amendments, with time agreements, and be ready to go. I say to the majority leader, you can splice this in as you see fit. I assure the majority leader—I see my distinguished colleague from Michigan on the floor—my colleague from Michigan is ready to join me on this. We will present to our joint leadership specific germane amendments on the list, and move along on this bill.

Mr. LOTT. Mr. President, if the Senator would yield, I am not sure what that means. That means, I think, you are not going to be able to consider any amendments tonight.

Mr. WARNER. That is correct. We made a strong effort.

Mr. LOTT. When you say you will present a list of amendments, and will try to work them through the process, that does mean, I take it, the amendments still would be debated, if they have to be debated.

Mr. WARNER. That is correct.

Mr. LOTT. Tuesday night.

Mr. WARNER. Tuesday night.

Mr. LOTT. The votes would occur on Wednesday morning, if any?

Mr. WARNER. That is correct.

Mr. LOTT. Do you have any amendments where there would be a need for a vote in the morning?

Mr. WARNER. Not tomorrow morning, I say to the leadership.

Mr. LOTT. Can you give me an idea about how many nights might be involved here because we are already beginning to think about another bill next week.

Mr. WARNER. I listened to that very carefully. I would say that with three evenings we can do it. And there may be a juncture during the course of the day when there could be an hour or two. If you give us a ring, we will have an amendment to plug in for that brief period of time.

Mr. LEVIN. If the leader will yield, it would be very helpful—I know it is difficult, and I have not had a chance to speak to my chairman about this, but if we knew in advance about when we would start the evening proceeding, I think that would help us line up some amendments.

Mr. LOTT. I believe sort of the gentlemen's agreement we were talking about last week was that we would start at about 6:30 or 7 o'clock, but not later than 7, and hopefully as early as 6:30 tomorrow night, possibly even Wednesday night. Thursday night is not likely. So then you might have to look at next Monday night for the third night, if a third night in fact is used.

There is a possibility we will reach a moment of lull or we will see an hour or two coming sometime during the day, and we will call quickly and ask for the managers to come over and do some of their work.

Mr. LEVIN. That would be good.

Mr. REID. Mr. President, if I could, just being involved on the fringes of this legislation, I think with the work of Senator LEVIN and Senator WARNER, they will complete this in two nights.

Mr. LOTT. I like the sound of that. Good luck.

Mr. WARNER. I thank our distinguished leader.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I understood we are in morning business at this time. Are we moving toward the Defense authorization bill? If we are moving on the Defense authorization bill, I will withhold.

The PRESIDING OFFICER. We are in morning business.

Mr. KENNEDY. I see my friends from Michigan and Virginia. Anytime they are prepared to request the floor, I will yield time.

H–1B VISAS AND ELEMENTARY AND SECONDARY EDUCATION

Mr. KENNEDY. Mr. President, I just want to take a moment of the Senate's time to speak about the two issues that have been talked about recently. One is the H–1B visa issue, to which the majority leader referred, as did Senator REID and Senator DORGAN, which will lift the caps so that we can have available to American industry some of the able, gifted, and talented individuals who have come to this country and who can continue to make a difference in terms of our economy.

We are in the process—at least I thought so, as a member of the Immigration Subcommittee—of working with Senator ABRAHAM from the State of Michigan, in working that process through to try to respond to the concerns that the leadership have; and that is that we debate that issue in a timely way, with a limited number of amendments, and that we reach a final conclusion in a relatively short period of time.

I had believed that those negotiations, at least from our side, were very much on track. During the negotiations, we had talked to the White House as well as with the House Judiciary Committee members, all of whom have an obvious interest.

So it did come as kind of a surprise—not that we are not prepared to move ahead. I would be prepared to move ahead even this evening. I do not know where the Senator from Michigan, who has the prime responsibility for that legislation, is this evening. He is not on the floor. But he has been conscientious in addressing that question.

One of the fundamental concerns—as we move toward permitting a number of individuals who have special skills to come in and fill in with the special slots that are crying out for need in our economy—is a recognition that, within our society, these are jobs that eventually should be available to American workers. There is nothing magical about these particular jobs—that if Americans have the opportunity for training, for additional kinds of education, they would be well qualified to hold these jobs.

Many of us have believed, as we have addressed the immediate need for the increase, that we also ought to address additional kinds of training programs, so that in the future we will have these kinds of high-paying jobs which offer enormous hope and opportunity to individuals, as well as the companies for whom they work, being made available to Americans. We discussed and debated those issues with the Judiciary Committee. We made pretty good progress on those issues. So I think there is a broad degree of support in terms of trying to address that issue.

But there are also some particular matters that cry out for justice as well. When you look back on the immigration issues, there were probably 350,000, perhaps 400,000 individuals who qualified for an amnesty program that was part of the law. As a result of a court holding that was actually overturned, all of these individuals' lives have been put at risk and, without any degree of certainty, subject to instances of deportation. So we wanted to try to address this issue. It seems to me that could be done in a relatively short period of time. It is a question of fundamental decency and fundamental justice.

We treat individuals who come from Central American countries differently, depending upon which country they come from. Therefore, there was some desire we would have a common position with regard to individuals. Senator MOYNIHAN had introduced legislation to that effect. That is basically a question of equity. There are really no surprises. It is not a new subject to Members of the Senate. It is something about which many of us have heard, on different occasions, when we have been back to see our constituencies.

These are some of the items that I think we could reach, if there were differences, a reasonable time agreement. But they are fundamental in terms of justice and fairness to individuals and their families.

If we are going to consider one aspect of change in the immigration law, it is not unreasonable to say if we are going to address that now, we ought to at least have the Senate vote in a responsible way on these other matters in a relatively short period of time so the Senate can be meeting its responsibilities in these other areas. So I look forward to the early consideration of this bill.

This isn't the first time we have dealt with the H–1B issue. We made some changes a few years ago. We were able to work it out in a bipartisan way. There is no reason that American industry should have concern that we are not going to take action. We will take action. Hopefully, we will do it in the next 3 weeks. There is no reason we should not.

The other issue is the question of elementary and secondary education. I certainly understand the responsibilities we have in completing Defense authorization, which is enormously important legislation. I am heartened by what the majority leader has said with regard to the follow-on in terms of elementary and secondary education. That is a priority for all American families. We ought to debate it. The principal fact is that we have debated it for 6 days and we have had seven amendments. Three of them were virtually unanimous. We didn't have to have any rollcall votes. On 2 of the 6 days, we were restricted because we were forbidden to offer amendments and have votes. We haven't had a very busy time with that as compared to the bankruptcy legislation, where we had 15 days and more than 55 amendments.

In allocating time, we are asking for fairness to the American families on education. If the Senate is going to take 15 days and have 55 amendments on bankruptcy legislation, we can take a short period of time—2 or 3 days—and have good debate on the question of elementary and secondary education,

which is so important to families across the country.

With all respect to the majority leader, the issue of school safety is out there. We need to ensure that we will do everything we possibly can to make sure we are not only going to have small class sizes, well-trained teachers, afterschool programs, efforts to try to help to respond to the needed repairs that are so necessary to so many schools across this country, and strong accountability provisions but make sure that, even if we are able to get those, the schools are going to be safe. We have measures we believe the Senate should address to make them safe.

If the majority is going to continue to, in a real way, filibuster, effectively, the consideration of elementary and secondary education by never bringing the matter before the Senate, they bear the responsibility of doing so. It is their responsibility. Every family in this country ought to understand that because they have the power, the authority, and the responsibility to put that before the Senate. If there is a question in terms of the relevancy or nonrelevancy of a particular amendment, the Senate can make that decision. But when we are denying families in this country the opportunity to address that and respond to it, we do a disservice to the families and to the children in this country, and, I believe, to the Senate itself.

This issue isn't going to go away. It will not go away. We may have only 3 more weeks, but we are going to continue to press it. We are going to press it all during July and all during September as well. It will not go away. Elementary and secondary education needs to be addressed. We have to take action. We owe it to the American families, and we have every intention of pursuing it.

I thank the Chair.

BRIGADIER GENERAL PAUL M. HANKINS

Mr. THURMOND. Mr. President, I rise today to pay tribute to an outstanding officer in the United States Air Force who is an individual we have each come to know over the past two-years—Brigadier General Paul M. Hankins.

As those of us who work on national security matters know, General Hankins has been serving as the Deputy Director of Legislative Liaison, where he has worked closely with us on a variety of issues of great importance to the defense of the nation. As he has done in all his previous assignments, General Hankins distinguished himself as an individual of selflessness who possesses a strong sense of service and an unflagging dedication to executing his duties to the best of his abilities.

General Hankins arrived at the job of Deputy Director of Legislative Liaison well prepared for the position. A graduate of the United States Air Force Academy, he is a career personnel officer whose assignments are a mix of operational, joint, and high-level staff duties. Included among his tours are assignments at Tactical Air Command, Air Training Command, Air Combat Command, and the Air Force Personnel Center. The General has also served previously in the Secretary of the Air Force's Office of Legislative Liaison and with the Office of the Undersecretary of Defense for Personnel and Readiness. He commanded the 6th Support Group at MacDill Air Force Base, Florida, and he served as chief of the Air Force Colonels' Group.

During the 106th Congress, General Hankins has been a valuable intermediary between the Congress and the Air Force on any number of vital matters. He always provided clear, concise, and timely information that was beneficial in supporting our deliberations on national security matters. Clearly, the leadership, professional abilities, experiences, and expertise of General Hankins enabled him to foster excellent working relationships that benefitted the Air Force and the Untied States Senate.

On a personal note, I am pleased to point out that I have known General Hankins since his days as a young captain, when he first demonstrated his skills at building ties with the Legislative Branch. At the time, he was serving at Kelly Air Force Base near San Antonio when he met a young woman who was a member of my Washington staff and visiting that facility. To make a long story short, Paul Hankins and the former Donna Folse fell in love, had a whirlwind romance, and got married approximately one-year after they began dating. Today, they have been married for fifteen years and together, they have raised two fine children, Priscilla and Clark.

The reward that the Air Force is giving General Hankins for doing a difficult and demanding job well is to give him an even more challenging assignment, solving the recruiting and retention issues facing the Air Force. Then again, given how the General has repeatedly demonstrated his ability to successfully meet and complete any assignment with which he has been tasked, it should not be surprising that the Secretary and Chief of Staff would select him to head-up this effort.

I am confident that I speak for all my colleagues when I say that we are grateful and appreciative for the hard work of General Hankins during his tenure as Deputy Director of Air Force Legislative Liaison. He is a credit to the Air Force and he can be proud of both the record of accomplishment he has created and the high regard in which he is held. We wish the General the best of luck in his new assignment and continued success in the years to come.

VICTIMS OF GUN VIOLENCE

Mr. LEVIN. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read some of the names of those who lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

July 10, 1999:

Thomas Carson, 72, Houston, TX;

Vincent Coleman, 22, Irvington, NJ;

Joseph Horter, 79, Philadelphia, PA;

Gregory Jones, 29, Miami-Dade County, FL;

Ricky Lane, 38, Mesquite, TX;

Edler Monestime, 51, Miami-Dade County, FL;

Cashonda Miller, 18, Kansas City, MO;

Gene Pailin, 17, Dallas, TX;

Michael Perry, 31, Miami-Dade County, FL;

Tristan Thompson, 23, Houston, TX;

David Woods, 21, Kansas City, MO;

Unidentified male, 27, Newark, NJ;

Unidentified male, 31, Portland, OR.

In addition, Mr. President, since the Senate was not in session last week, I ask unanimous consent that the names also be printed in the RECORD of some of those who were killed by gunfire last year on the days from June 30th through July 9th.

June 30:

Edwin Cruz, 23, Chicago, IL;

Jermaine Demps, 26, Detroit, MI;

Stephen Gawel, 37, Detroit, MI;

Arron Green, 19, Detroit, MI;

Herth Hawks, 25, Charlotte, NC;

Blake King, 17, Gary, IN;

Donte A. Marshall, 22, Gary, IN;

Benjamin McCoy, 18, Gary, IN;

Edward Perry, Jr., 27, Baltimore, MD;

Sharon P. Robinson, 51, Oklahoma City, OK;

Jessie Wilburn, 48, Dallas, TX;

Unidentified male, 50, Nashville, TN.

July 1:

CRAIG Butler, 44, Philadelphia, PA;

James Hopkins, 20, Baltimore, MD;

Michael Okarma, 56, Seattle, WA;

Derrick Owens, 26, Bridgeport, CT;

Gloria Pickett, Detroit, MI;

Angel Rivera, 23, Philadelphia, PA;

Frankie Rivera, 29, Philadelphia, PA;

Mark Spann, 18, Baltimore, MD;

Anthony Stroud, 12, Houston, TX;

Unidentified male, 14, Chicago, IL.

July 2:

Antonio Baker, 21, Charlotte, NC;

Keith Carter, 34, Detroit, MI;

Eric Harvey, 14, Nashville, TN;

Tae-Dong Kim, 59, San Antonio, TX;

Ahmed Massey, 14, Rock Hill, SC;

Derren Minnick, 30, Philadelphia, PA;

James Ortiz, 39, Houston, TX;

Michael A. Smith, 25, Chicago, IL;

Unidentified male, 18, Newark, NJ.

July 3:

J.C. Addington, 81, Dallas, TX;

Kelton R. Austin, 24, Chicago, IL;
Patricia Austin, 38, Akron, OH;
Norberta Bachiller, 48, Miami-Dade County, FL;
Raymond Castillo, 19, Dallas, TX;
William Brock Crews, 24, Washington, DC;
Gerald Crowder, 21, Atlanta, GA;
Ronald V. Daily, 56, Oklahoma City, OK;
Ricky Davis, 22, Chicago, IL;
Augustine Garza, 18, Chicago, IL;
George Green, Jr., 47, Dallas, TX;
Reginald Griffin, 15, St. Louis, MO;
Anthony Hawkins, 16, Houston, TX;
James Jones, 40, Baltimore, MD;
Carl Peterson, 45, Superior, WI;
Luis Rebolledo, 25, Chicago, IL;
Salvador Romero, 35, Detroit, MI;
Kenny Sharpless, Detroit, MI;
Jeremy Thalley, 16, Denver, CO;
Shawn Washington, 28, Oakland, CA.
July 4:
Souksevenh Bounphithack, 34, Minneapolis, MN;
Charles Butler, 52,Washington, DC;
Quinn Johnson, 28, Miami-Dade County, FL;
Eric McCara, 39, Detroit, MI;
Kenneth C. Rutledge, 22, Chicago, IL;
Mark Russell, 35, Akron, OH;
Gerardo Silva, 21, Chicago, IL;
Demario Stephens, 18, Oakland, CA;
Won J. Yoon, 26, Bloomington, IN.
July 5:
Dewayne Allen, 21, New Orleans, LA;
Jason Anderson, Pine Bluff, AR;
Jill H. Barringham, 53, Seattle, WA;
Melvin Blagman, 19, Philadelphia, PA;
Davattah Brown, 37, Gainesville, FL;
Lewis J. Fennell, 52, Oklahoma City, OK;
Brian Paylor, 18, Baltimore, MD;
Jose Pantoja, 27, Houston, TX;
Unidentified female, 67, Nashville, TN;
Unidentified male, 74, Honolulu, HI;
Unidentified male, 18, Newark, NJ.
July 6:
Alicia Arellano, 23, Elkhart, IN;
John Thomas Crowder, 34, Washington, DC;
Darren Franklin, 13, New Orleans, LA;
Eugene Glass, 29, Detroit, MI;
James Hartsock, 66, Houston, TX;
Raymond E. Johnson, Pine Bluff, AR;
Doffice Kelly, 48, Fort Wayne, IN;
Mark Kingsbury, 25, Washington, DC;
Ronald Powell, 26, Kansas City, MO;
Tamica Tyler, Pine Bluff, AR;
Kevin Walter, 40, Detroit, MI;
Linda A. Winters, 35, Chicago, IL.
July 7:
Lugene Akins, 41, Rochester, NY;
Allen G. Barrousse, 40, New Orleans, LA;
Imon T. Boyce, 20, Oklahoma City, OK;
Theodore M. Goode, 26, Oklahoma City, OK;
Eric Goodloe, 20, Gary, IN;
Kevin Gore, 17, Philadelphia, PA;
Duskie M. Murrow, 20, Oklahoma City, OK;
Angel Ortiz, 26, Holyoke, MA;
Peter Quattro, 24, Miami-Dade County, FL;
Delfino Vega, 21, Chicago, IL;
Unidentified male, 43, Bellingham, WA;
Unidentified male, 57, San Jose, CA.
July 8:
Renee Battle, 29, Chicago, IL;
Bruce Bensch, 52, Miami-Dade County, FL;
Devon Campbell, 19, Louisville, KY;
Roberto Carmona, Jr., 17, Chicago, IL;
Curtis J. Crawley, 19, Rochester, NY;
Jerrod Crump, Pine Bluff, AR;
Vickie A. Owensboro, 36, Memphis, TN;
Jesus Gomez, 24, Seattle, WA;
Nathan Goodman, 17, Dallas, TX;
Julia Matlock, 39, Nashville, TN;
Curlenzo Stith, 29, Baltimore, MD;
Francisco Terrazas, 19, Chicago, IL;
Maurice Thomas, 26, Chicago, IL;
Margie Villarreal, 24, San Antonio, TX;
Juan Yanes, 80, Miami-Dade County, FL.
July 9:
John Amado, 22, San Bernardino, CA;
Mark Barton, San Francisco, CA;
Michael Day, 20, Washington, DC;
Michael Gloria, 17, Mesquite, TX;
John Hendricks, Detroit, MI;
Lindell Kendall, 16, Macon, GA;
Russell H. Lee, 39, Seattle, WA;
Benjamin Lindsey, 34, Atlanta, GA;
Miguel McElroy, 18, Minneapolis, MN;
Oren W. Nevins, 69, Oklahoma City, OK;
Tony Paxton, 28, Miami-Dade County, FL;
Freddie Poyner, 15, Baltimore, MD;
Michael Randell, 33, Tulsa, OK;
Anthony Whitney, 27, Kansas City, MO;
Unidentified male, San Francisco, CA.

IMPACT AID SCHOOL CONSTRUCTION AMENDMENT

Mr. BAUCUS. Mr. President, last week, I was successful in achieving the inclusion of a bipartisan amendment in the Manager's Amendment on Labor, Health and Human Services, and Education Appropriation bill, on one of the most important issues we will deal with in this Congress—the poor condition of our Nation's school buildings.

Let me briefly describe this amendment before I talk about the larger problem this amendment is seeking to address.

This amendment is co-sponsored by Senator BINGAMAN, Senator DOMENICI, and Senator HUTCHISON from Texas—this bipartisan group should send a very strong signal that this amendment is worthy of support.

This is a very simple amendment. Both the House and Senate versions of the Labor-HHS Appropriations bill set aside $25 million for Impact Aid school construction. This amendment increases that amount to $10 million.

It offsets the increase by reducing the administrative and related expenses of the Departments of Health and Human Services, Labor, and Education on a pro rata basis by $10 million.

Allow me to explain why this amendment is so important to me and to the bi-partisan group of Senators that support this amendment.

As you know, there are a number of pending bills that address our nation's school construction needs. And in the past days, we have voted on a number of amendments addressing school construction issues generally.

These funds assist local school districts who are then able to raise the remainder of their construction funds through bond issues. Like other school costs, the bonds are paid for by taxes on local property.

Issuing bonds is a time-honored approach to school construction. But in the heated national debate, one group of children is continually left out in the cold—students who live on federally owned land, usually an Indian reservation or a military installation.

In Montana, some 12,000 children fall into this category.

These schools are located in areas where much of the local property can't be taxed because of Federal activities. This tax-exempt property may be a military base or an Indian reservation.

In many cases, the local public schools have to educate the children of families that live on the property. These so-called ''Federal Students'' could come from military families. They could come from civilian families. They could come from Native American families.

The Congress has recognized its responsibility for these schools through payments authorized by Title VIII of the Elementary and Secondary Education Act.

The House and Senate bills allocate $25 million for school construction to be distributed under Section 8007 of the Elementary and Secondary Education Act.

This is simply insufficient to meet the needs of these federally impacted schools.

In fiscal year 2000, Montana had 28 school districts that were 50 percent or more impacted with either Indian land children or military students. Nationwide, there were 249 such districts.

In FY2000, the average allocation per school district in Montana of Impact Aid funds is just below $18,000. The average dollar received per student is $57.

Think about that for a moment. $57 for construction is not going to do a heck of a lot of good for schools that are literally falling down.

Now, under the FY2001 appropriations bill, funding would increase to approximately $90 per student. And while that's better than $57, it still falls way short of meeting the needs of our students.

Let me tell you a couple of stories to illustrate this point.

I remember talking last year with the Superintendent for the Harlem School District Don Bidwell. His district is so crowded, he has students

using a closet, where they used to keep the snow blower, for a classroom. Now the snow blower is in the hall and the students are in the closet.

And let me tell you about a recent visit with Steve Smyth, the Superintendent of the Browning school district in Montana.

Browning is situated in one of the windiest areas of Montana. Mr. Smyth informed me that a year ago, the students, teachers, administrators and community watched the roof on the high school building literally curl up like the lid on a sardine can because of the harsh winds.

Just to replace that roof, the district spent $115,881. And yet, they only received $27,000 for school construction and repairs in FY 2000. How can we justify giving them only enough money to pay for one-fourth of their roof? That is a disgrace.

Let me give you another example. In 1998, the Box Elder school received $13,000 in Impact Aid construction funding. In FY 2000, they received $19,500. That might be enough to give half the building a paint job, but not for much more.

It's like trying to put out a fire with squirt gun. What this school really needs is a new building or a major renovation.

The condition of these schools is not a Montana problem. Nor a Nebraska problem. Nor a partisan problem.

Instead, it's a national problem.

As a nation, we can no longer pretend that this is a problem in a few schools in a few states that can be solved with a few scraps from our federal education appropriation.

Every child in the United States deserves a healthy learning environment. An important and vital part of that environment is the physical structure the learning takes place in. Our children should be confident their school will still be standing by the end of the day. Our children shouldn't fear that their school is going to burn down because of faulty wiring.

Mothers and fathers should know that when they drop their children off at school or send them off to the school bus, that they are sending them to a safe place.

I am pleased the managers of this bill saw this amendment fit to be included in their amendment. I thank Senators BINGAMAN, DOMENICI, and HUTCHISON from Texas for their support. I hope that the conferees will maintain this increased level of funding.

REFORMING UNILATERAL SANCTIONS ON FOOD AND MEDICINE

Mr. BAUCUS. Mr. President, I rise today to address recent developments in the effort to reform our sanctions policy towards food and medicine.

Let me recall a bit of recent history. Late last year, the Senate passed legislation to end the use of food and medicine as a weapon of foreign policy. We passed it by a substantial margin—70 to 28—as an amendment to the FY 2000 Agriculture Appropriations bill.

We have both moral and commercial concerns. It is just wrong to inflict suffering on innocent people by withholding food and medicine because we oppose the policies of their government. This goes against the core values of our nation.

Commercially, the reform legislation would open markets to American producers, especially American farmers. They have been struggling through a long and terrible crisis brought on by low prices and bad weather. Opening new foreign markets would especially help our family farms.

The sanctions reform amendment ran into stiff opposition from House members in conference. Their main objection was that the bill would allow food and medicine sales to Cuba. Unfortunately, they prevailed, and the amendment was struck from the conference report.

That was last year. What about this year? We've had two important developments.

On the Senate side, the Agriculture Committee included sanctions reform in the FY 2001 Agriculture Appropriations bill, which was reported out in May. It is the section of the bill entitled the ''Food and Medicine for the World Act.'' I would like to acknowledge the work of my colleagues on this important legislation, especially Senators DODD, DORGAN, ROBERTS, ASHCROFT and HAGEL.

It is very similar to the amendment the Senate passed last year. I would note that it contains a new provision which weakens the sanctions reform effort. This provision requires one-year licenses for sales of food or medicine to governments on the State Department's terrorism list. Currently this list covers seven countries, Iran, Iraq, Libya, Syria, Sudan, North Korea and Cuba. I believe that this provision is an unnecessary restriction on our agricultural exporters.

But I am much more concerned about recent developments on the House side.

In late June, House members struck a deal to accommodate the same small group which fights against sanctions reform every year. Those members now have one main target: Cuba.

This recent House deal is billed as a move to lift unilateral sanctions on food and medicine. In fact, it does just the opposite. Let me explain.

First, it would outlaw all finance and insurance of food sales to Cuba, even sales to private groups. This would essentially prohibit all U.S. exports. In today's world, nobody trades without some sort of finance. It takes at least a letter of credit. What is the alternative? Only to ride along on the cargo ship to exchange your wheat for cash in Havana harbor. Everybody requires some sort of commercial insurance. In fact, the House agreement is so broadly written that it might even make third-country finance illegal. This is very bad legislation.

Second, the House agreement would impose even stricter licensing requirements than are in effect today on sales of food and medicine. These new restrictions would apply not just to Cuba, but also to Iran, Iraq, Libya, Sudan, Syria and North Korea.

Third, it would make it harder for U.S. exporters to travel to Cuba to explore the market.

Fourth, it would prohibit any food assistance, such as Food for Peace, to Cuba, as well as to Iran.

Accepting these provisions would be a major setback for the Senate.

The House agreement goes beyond sanctions for food and medicine. It includes provisions on travel to Cuba, an entirely unrelated issue. It would remove all flexibility from the current travel regulations in two ways. First, it would make them statutory. They could only be changed in the future by new legislation. Second, it would deny the Treasury Department any discretion in issuing travel licenses.

I understand that the current House plan is to strip this bad legislation from their version of the FY 2001 Agriculture Appropriations bill, and then bring it up in conference. We must not let a small group of House members prevail again this year. I firmly oppose the House agreement, and I urge my colleagues to do likewise. We should work to ensure passage of the Food and Medicine for the World Act.

Last year, the Senate took action that was correct and sound. We should continue to press forward.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, July 7, 2000, the Federal debt stood at $5,664,950,120,488.65 (Five trillion, six hundred sixty-four billion, nine hundred fifty million, one hundred twenty thousand, four hundred eighty-eight dollars and sixty-five cents).

One year ago, July 7, 1999, the Federal debt stood at $5,627,556,000,000 (Five trillion, six hundred twenty-seven billion, five hundred fifty-six million).

Five years ago, July 7, 1995, the Federal debt stood at $4,929,459,000,000 (Four trillion, nine hundred twenty-nine billion, four hundred fifty-nine million).

Twenty-five years ago, July 7, 1975, the Federal debt stood at $528,168,000,000 (Five hundred twenty-eight billion, one hundred sixty-eight million) which reflects a debt increase of more than $5 trillion—$5,136,782,120,488.65 (Five trillion, one hundred thirty-six billion, seven hundred eighty-two million, one hundred twenty thousand, four hundred eighty-eight dollars and sixty-five cents) during the past 25 years.

ADDITIONAL STATEMENTS

A NATION OF IMMIGRANTS

• Mr. KENNEDY. Mr. President, each year the American Immigration Law Foundation and the American Immigration Lawyers Association sponsor a national writing contest on immigration. Thousands of fifth grade students across the country participate in the competition, answering the question, ''Why I'm Glad America is a Nation of Immigrants.''

In fact, ''A Nation of Immigrants'' was the title of a book that President Kennedy wrote in 1958, when he was a Senator. In this book, and throughout his life, he celebrated America's great heritage and history of immigration as a principal source of the nation's progress and achievements.

As one of the judges of this year's contest, I was impressed by the quality of writing that was presented and the great pride of these students in America's immigrant heritage. Many of these essays told the story of their own family's immigration to the United States.

The winner of this year's contest is Kaitlin Young, a fifth grader at St. Anne Elementary School in Warren, Michigan. She wrote about her diverse immigrant background and how this diversity enriches her life. Other students honored for their creative essays were Shayna Walton of Arizona, John Klaasen of Washington, Allison Paige Sigmon of North Carolina, and Christa Conway of Connecticut.

I believe that these award winning essays from the ''Celebrate America'' contest will be of interest to all of us in the Senate, and I ask that they may be printed in the RECORD.

The essays are as follow.

IMMIGRATION & ME

(By Kaitlin Young, Warren, MI, grand prize winner)

If it weren't for immigration, the diversity in me
I might be a Who-not on my family tree.
English, Irish, Dutch, American Indian too
Italian ancestry in the mix, a family tree in bloom.

America welcomed my ancestors–a promise to be free
Ellis Island & the Statue of Liberty are symbols dear to me.
Our country's promise, the freedom to worship here
Practice our family customs and belief we hold dear.

The promise of America rings throughout me
The Torch of Freedom helped shape my family tree.
My Grandmas and Grandpas are from here and there
So when Mom married Dad, I came from everywhere.

I eat different foods from across the world
Irish stew, potatoes and pasta that is curled.
Salmon steak, pot roast, and Dutch Apple pie
Egg rolls, pizza, a menu diversified.

Soccer, Bocce Ball, and Cricket too.
Without immigration, you might not play the sports you do.
Without immigration what would you hear?
The same old sounds filling your ear.

If it were not for immigration, what would we see?
All the leaves the same on my family tree.
That is why I am so happy for diversity,
Because of Immigration—I am me!

WHY I'M GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Shayna Walton, Tucson, AZ, finalist)

Hooray Hooray for the U.S.A.
Life is good the American Way.

Immigrants come from far and near
To have a much better life right here.

They come in hopes of a freer life.
Sometimes they come to leave their strife.

What a better place we have become
because of all that immigrants have done.

They've shared their different ways they cook
and written many stories in a book.

The unique styles that they wear—
now you see them everywhere.

They've brought us lots of delicious foods
which certainly has improved our moods!

They've created dances, songs and art
Which has caused happiness in my heart.

All the immigrants' different languages are so neat
To learn them all would be quite a feat!

In this country you can have your say
You can give your opinion and talk all day!

We are all immigrants in our own way—
I'm so glad that we're all here to stay!

WHY I AM GLAD THAT AMERICA IS A NATION OF IMMIGRANTS

(By John Klaasen, Olympia, WA, finalist)

Iceland
Madagascar
Mexico
India
Germany
Russia
Afghanistan
Nepal
Taiwan
South Korea

Oceania
Finland

Thailand
Haiti
Ecuador

Uruguay
New Zealand
Indonesia
Turkey
Egypt
Denmark

Spain
Tanzania
Albania
Togo
Ethiopia
Sri Lanka

Oman
France

Algeria
Mongolia
Eritrea
Romania
Iraq
Canada
Argentina

All
Refugees
Enter Looking for

Freedom,
Respect and
Open arms into our
Merry nation

Asylum
Legal residence and
Liberty

Offer
Values,
Education,
Rights,

Traditions,
Honor and
Equal treatment.

We
Offer
Refugees
Lasting
Democracy.

WHY I AM GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Allison Paige Sigmon, Sparta, NC, finalist)

Intelligence, inventions
Movies, medicine, music, melting pot
Medical breakthroughs, marketing
Innovations, instruments (musical)
Global diversity, gods, government
Racial equality, restaurants, religion
Ancestors, agriculture, architecture, artists
News, Nobel Peace Prize, nationalities
Teachers, theatre, trade, technology, transportation
Space travel, sports, science

All of these words are what I think immigrants have brought to our country to make us a strong and powerful nation.

WHY I'M GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Christa Conway, Manchester, CT, finalist)

What do the people bring when they come to America's shores?
What do the people bring on their boats rowing with oars?
What do the people bring in their trunks, bags, and cases?
What do the people bring?
They bring a world of new faces.

The first sight that they get of land, is like a cavern of gold
They see all brand new faces, all both young and old.
They see the green fresh grass, or see the glittering snow,
What do the immigrants see?
They see a new world to know.

What were the gifts they brought?
They weren't gold, riches and powers!
They brought just simply their culture,
Which now we proclaim as ours.

Music, festivals, stories,
Which we can now enjoy.
Everyone will enjoy it!!
Every girl and every boy!!

So why I'm glad America
Is a nation of immigrants true,
Is something that really matters,
It matters to me and you.
Immigrants are what make America whole,
What makes it pure and unique.
This melting pot of cultures,
Will never spring a leak!!!•

''THE WONDERS OF WARD 8''

• Mr. JEFFORDS. Mr. President, it gives me pleasure to bring to my colleagues' attention a truly remarkable program that, unfortunately, is not located in my home state of Vermont, but nonetheless, does great work for Vermonters. Let me talk for a moment about the ''Wonders of Ward 8.'' To enlighten my colleagues, ''Ward 8'' houses the inpatient Post Traumatic

Stress Disorder (PTSD) treatment program at the Northhampton VA hospital. According to Friends of Ward 8, a group of veterans whose lives have taken on new meaning as a result of their treatment at this facility, there is no better place on earth to deal with the psychological wounds of war.

The Department of Veterans Affairs (VA) is recognized worldwide as a true leader in the area of PTSD research and I applaud my friend Dr. Matt Friedman and his staff at the National Center for PTSD for the incredible work they have done to bring this often debilitating condition to the forefront of public recognition and scholarly research. Thanks also go to Dr. Friedman for making treatment of PTSD a priority for the VA. Ward 8 is a shining example of what an inpatient program specializing in trauma treatment should look like. Although Ward 8 is located in Massachusetts, veterans from all over the country have benefitted from this program—including many, many Vermonters. It was established to offer inpatient rehabilitative treatment to veterans suffering from PTSD as a result of their wartime service and is one of eight inpatient VA programs. Ward 8 provides this high quality service while running one of the most efficient and cost effective inpatient treatment program in the VA system.

According to the Friends of Ward 8, the staff at this facility are the reason for its success. I would like to recognize and thank the ''heroes'' of Ward 8 beginning with the Program Director Dr. Sonny Monteiro and his dedicated staff of men and women including Dr. Richard Pearlstein, Bruce Bennett, Sherrill Ashton, John Christopher, Ken Zerneri, Gary Kuck, Fran Lunny, Joe Polito, Brooks Ryder, Judy Zahn, Heather White, Wayne Lynch, Alec Provost, Mike Connor, Barbara Graf and Delores Elliott. I hear again and again from Vermonters about how they bring compassion and healing to the science of mental health. It is the human touch that they so generously dispense that makes such a difference in the lives of veterans who struggle to recuperate from their wounds of war. Their dedication to their jobs and to the lives they touch has built a legacy for this program unrivaled by any other PTSD program in the country.

I thank you, Ward 8, and the many veterans from around the country who have crossed your threshold, thank you.●

RECOGNIZING QWEST COMMUNICATIONS INTERNATIONAL

● Mr. ALLARD. Mr. President, I rise to comment on some significant developments that have recently taken place in my home state of Colorado that will positively benefit the entire world of telecommunications.

Qwest Communications International, Inc. of Denver, a young, worldwide leader in broadband Internet-based communications, continues to expand its technologies and vision for the coming century. Just three and one-half years ago, this innovative company catapulted the world into the Information Age beginning by branding its nation-wide fiber-optic network and developing connections into Mexico, intercontinental cable to Europe and transpacific submarine capacity to the Pacific Rim. The Company's services provide a full range of leading-edge data, voice, video, e-commerce, web-hosting and related services to consumers and business customers, including a variety of multimillion dollar government contracts recently awarded to Qwest, such as the Treasury Department and DOE's Energy Sciences Network.

Qwest has positioned itself for the new Information Age economy by combining its strengths and forming numerous strategic alliances, partnerships and evolving its next-generation infrastructure through a variety of acquisitions.

About one year ago Qwest and U.S. WEST announced their intent to merge. On Friday, June 30 that merger became reality.

I applaud the FCC, the states and other appropriate agencies for reviewing and approving this complementary merger in a respectable timeframe and in accordance with the 1996 Telecommunications Act. This now allows the ''new'' Qwest to bring a different competitive dynamic to the global marketplace.

I ask my colleagues today to join me in commending the regulatory bodies for enhancing the process of this merger and to the Companies' merger review team, led by Drake Tempest and Steve Davis, as well as other Company officials. In closing, I extend my best wishes for continued success to Qwest and its Chairman and CEO, Joe Nacchio. Mr. Nacchio will resume the leadership of the ''new'' Qwest to bring the benefits of this global Company to all of our constituents.●

RECOGNITION OF THE YOUTH INVESTMENT PROGRAM OF THE TUKWILA SCHOOL DISTRICT

● Mr. GORTON. Mr. President, in February of 1999, I awarded my first Innovation in Education Award to the Tukwila School District for their ''Friends and Family Program.'' Now, over a year later, I am standing on the Senate floor again to recognize an innovative program in this same district, the Youth Investment Program at Cascade View Elementary. As both these awards indicate, great things are coming out of the Tukwila School District and this innovative summer school program is no exception.

Teachers and educators at Cascade View Elementary realized that many of their students were in need of additional help to be ready for their upcoming school year. Cascade Valley wanted to take advantage of the summer months to target students who need extra help in reading, math, and writing skills. Thus, the Youth Investment Program was created. Last week, I visited with teachers and students from this program and witnessed first-hand the tremendous impact that it has on its students.

In classes where approximately 22-percent of the students speak English as a second language and skill levels range across the board, these teachers have produced spectacular results in their students' academic achievements and social development.

Michael Silver, Superintendent of the Tukwila District, says ''There is a high percentage of kids from different ethnic groups who are at different skill levels. Our program has been able to streamline their learning to catch them up for their new grade level.''

The Youth Investment Program is also preparing students to succeed in the 21st century by incorporating computer training into many of the traditional academic subjects. The computer skills of each child are monitored throughout program. Teachers have also used computers to teach non-traditional courses such as drama and music which has enabled students and teachers to bring new meaning to the classroom. I am positive that these students will return to school in the fall not only equipped with renewed confidence but also with the skills and knowledge demanded by the new technology age.

After spending a time with the students and teachers involved in the Youth Investment Program, it was not hard for me to see why the efforts of the Tukwila School District continue to stand out among local education in Washington State. Mr. President, the Youth Investment Program demonstrates once again that our local educators know how to meet the needs of their students. I applaud the work of the staff and teachers at Cascade View and I am pleased to present my 44th Innovation in Education Award to the Youth Investment Program.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 1:09 p.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the Speaker pro tempore has signed the following enrolled bill:

S. 148. An act to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

The bill was signed subsequently by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–9598. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the report entitled ''Equitable Relief Granted By The Secretary Of Veterans Affairs In Calendar Year 1999''; to the Committee on Veterans' Affairs.

EC–9599. A communication from the Vice-Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Election Cycle Reporting by Authorized Committees'', received on July 6, 2000; to the Committee on Rules and Administration.

EC–9600. A communication from the Director of Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Jurisdictional change for the Los Angeles and San Francisco asylum offices'' (RIN1115–AF18 (INS No. 1949–98)) received on June 27, 2000; to the Committee on the Judiciary.

EC–9601. A communication from the Attorney General, transmitting, pursuant to law, a report relative to the status of the United States Parole Commission; to the Committee on the Judiciary.

EC–9602. A communication from the Assistant Attorney General, transmitting, pursuant to law, a report relative to the Office of Police Corps and Law Enforcement Education for Calendar Year 1999; to the Committee on the Judiciary.

EC–9603. A communication from the Associate Deputy Attorney General and White House Liaison, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Attorney General, Tax Division, Department of Justice; to the Committee on the Judiciary.

EC–9604. A communication from the Legislative Liaison of the Trade and Development Agency, transmitting, pursuant to law, the report relative to funding obligations dated June 22, 2000; to the Committee on Appropriations.

EC–9605. A communication from the Architect of the Capitol, transmitting, pursuant to law, the report of all expenditures during the period October 1, 1999 through March 31, 2000; to the Committee on Appropriations.

EC–9606. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–9607. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the transmittal of the certification of the proposed issuance of an export license relative to the United Kingdom; to the Committee on Foreign Relations.

EC–9608. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the transmittal of the certification of the proposed issuance of an export license relative to Egypt; to the Committee on Foreign Relations.

EC–9609. A communication from the Acting Chief Counsel (Foreign Assets Control), Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Foreign Narcotics Kingpin Sanctions Regulations'' (RIN CFR Part 598) received on June 2, 2000; to the Committee on Foreign Relations.

EC–9610. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Passport Procedures-Amendment to Execution of Passport Application Regulation'' received on June 21, 2000; to the Committee on Foreign Relations.

EC–9611. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the transmittal of the certification of the proposed issuance of an export license relative to French Guiana; to the Committee on Foreign Relations.

EC–9612. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the transmittal of the certification of the proposed issuance of an export license relative to Australia and Japan; to the Committee on Foreign Relations.

EC–9613. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the transmittal of the certification of the proposed issuance of an export license relative to Canada and Sweden; to the Committee on Foreign Relations.

EC–9614. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the transmittal of the certification of the proposed issuance of an export license relative to Germany; to the Committee on Foreign Relations.

EC–9615. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the transmittal of the certification of the proposed issuance of an export license relative to Australia; to the Committee on Foreign Relations.

EC–9616. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the transmittal of the certification of the proposed issuance of an export license relative to France and Germany; to the Committee on Foreign Relations.

EC–9617. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the transmittal of the certification of the proposed issuance of an export license relative to France and the United Kingdom; to the Committee on Foreign Relations.

EC–9618. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to ''Overseas Surplus Property'' for fiscal years 2000 through 2001; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES DURING ADJOURNMENT

Under the authority of the order of the Senate of June 30, 2000, the following reports of committees were submitted on July 5, 2000:

By Mr. ROTH, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 3916: To amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services (Rept. No. 106–328).

By Mr. ROTH, from the Committee on Finance, without amendment:

S. 2839: A bill to amend the Internal Revenue Code of 1986 to provide marriage tax relief by adjusting the standard deduction, 15-percent and 28-percent rate brackets, and earned income credit, and for other purposes (Rept. No. 106–329).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1438: A bill to establish the National Law Enforcement Museum on Federal land in the District of Columbia (Rept. No. 106–330).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1670: A bill to revise the boundary of Fort Matanzas National Monument, and for other purposes (Rept. No. 106–331).

S. 2020: A bill to adjust the boundary of the Natchez Trace Parkway, Mississippi, and for other purposes (Rept. No. 106–332).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 2511: A bill to establish the Kenai Mountains-Turnagain Arm National Heritage Area in the State of Alaska, and for other purposes (Rept. No. 106–333).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of substitute:

H.R. 2879: A bill to provide for the placement at the Lincoln Memorial of a plaque commemorating the speech of Martin Luther King, Jr., known as the ''I have A Dream'' speech (Rept. No. 106–334).

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. BREAUX:

S. 2840. A bill to establish a Commission on the Bicentennial of the Louisiana Purchase and the Lewis and Clark Expedition; to the Committee on Government Affairs.

By Mr. ROBB (for himself, Mr. DURBIN, Mr. SARBANES, Ms. MIKULSKI, Mr. AKAKA, Mr. WELLSTONE, Mr. FEINGOLD, Mr. SCHUMER, and Mr. KENNEDY):

S. 2841. A bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes; to the Committee on Government Affairs.

By Mr. REID:

S. 2842. A bill to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, for continued use as a cemetery; to the Committee on Energy and Natural Resources.

By Mr. BREAUX:

S. 2843. A bill for the relief of Antonio Costa; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. INOUYE:

S. Res. 334. A resolution expressing appreciation to the people of Okinawa for hosting United States defense facilities, commending the Government of Japan for choosing Okinawa as the site for hosting the summit meeting of the G–8 countries, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 2842. A bill to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, for continued use as a cemetery; to the Committee on Energy and Natural Resources.

THE LANDER COUNTY CEMETERY CONVEYANCE ACT

Mr. REID. Mr. President, I rise today to introduce the Lander County Cemetery Conveyance Act.

The settlement of Kingston, Nevada was destination and home to pioneers that settled the isolated high desert valleys of the central Great Basin. The inhabitants of this community set aside a specific community cemetery to provide the final resting place for friends and family who passed away. The early settlers established and managed the cemetery in the late 1800's. The Kingston cemetery is on land now managed by the United States Forest Service (FS). The FS is selling approximately one acre to the Town of Kingston, but this conveyance does not allow for the long-term use and expansion beyond the undisturbed historic graves, the implementation of the community's original 10 acre site plan, nor the protection of the uncharted graves.

Mr. President, the site of this historic cemetery was established prior to the designation of the Forest Reserve surrounding the Town of Kingston. The surrounding Forest Reserve was established in 1908. Under current law, the agency must sell the encumbered land at fair market value to this community for continued use. My bill provides for the conveyance of the balance of the original, recognized cemetery location to Lander County, at no cost, contingent on the completed sale of the acre to the Town of Kingston. It is unconscionable to me that this landlocked, rural community is required to buy their ancestors back from the Federal government.

I sincerely hope that members of Congress recognize the benefit to the local community that the conveyance would provide and pass this legislation.

Mr. President, I ask unanimous consent that the full 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. 2842

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

SECTION 1. FINDINGS.

Congress finds that—

(1) the historical use by settlers and travelers since the late 1800's of the cemetery known as ''Kingston Cemetery'' in Kingston, Nevada, predates incorporation of the land on which the cemetery is situated within the jurisdiction of the Forest Service;

(2) it is appropriate that that use be continued through local public ownership of the parcel rather than through the permitting process of the Federal agency; and

(3) to ensure that all areas that may have unmarked gravesites are included and to ensure the availability of adequate gravesite space in future years, a parcel of approximately 10 acres, the acreage included in the original permit issued by the Forest Service for the cemetery, should be conveyed for that purpose.

SEC. 2. CONVEYANCE TO LANDER COUNTY, NEVADA.

(a) CONVEYANCE.—Notwithstanding any other provision of law, the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the ''Secretary''), simultaneously with or as soon as practicable after the conveyance of the core parcel under subsection (b), shall convey, without consideration, subject to valid existing rights, to Lander County, Nevada (referred to in this section as the ''county''), all right, title, and interest of the United States in and to the remaining parcel of the land described in subsection (c).

(b) CONVEYANCE OF CORE PARCEL.—The making of the conveyance under subsection (a) is contingent on the making of a conveyance, under Public Law 85–569 (commonly known as the ''Townsite Act'') (16 U.S.C. 478a), of 1.25 acres of the land described in subsection (c) in which gravesites have been identified.

(c) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of National Forest System land (including any improvements on the land) known as ''Kingston Cemetery,'' consisting of approximately 10 acres and more particularly described as SW1/4SE1/4SE1/4 of section 36, T. 16N., R. 43E., Mount Diablo Meridian.

(d) USE OF LAND.—

(1) IN GENERAL.—The county (including its successors) shall continue the use of the parcel conveyed under subsection (a) as a cemetery.

(2) REVERSION.—If the Secretary, after notice to the county and an opportunity for a hearing, makes a finding that the county has discontinued the use of the parcel conveyed under subsection (a) as a cemetery, title to the parcel shall revert to the Secretary.

(e) ACCESS.—At the time of the conveyance under subsection (a), the Secretary shall grant the county an easement granting access for persons desiring to visit the cemetery and other cemetery purposes over Forest Development Road #20307B, notwithstanding any future closing of the road for other use.

ADDITIONAL COSPONSORS

S. 662

At the request of Mr. L. CHAFEE, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 662, a bill to amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program.

S. 682

At the request of Mr. HELMS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 682, a bill to implement the Hague Convention on Protection of Children and Co-operation in Respect of Intercounty Adoption, and for other purposes.

S. 702

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 702, a bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes.

S. 1333

At the request of Mr. WYDEN, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1333, a bill to expand homeownership in the United States.

S. 1485

At the request of Mr. NICKLES, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1485, a bill to amend the Immigration and Nationality Act to confer United States citizenship automatically and retroactively on certain foreign-born children adopted by citizens of the United States.

S. 1810

At the request of Mrs. MURRAY, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Missouri (Mr. ASHCROFT) were added as cosponsors of S. 1810, a bill to amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures.

S. 1900

At the request of Mr. LAUTENBERG, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1900, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 1935

At the request of Mr. HARKIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1935, a bill to amend title XIX of the Social Security Act to provide for coverage of community attendant services and supports under the medicaid program.

S. 2061

At the request of Mr. BIDEN, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 2061, a bill to establish a crime prevention and computer education initiative.

S. 2287

At the request of Mr. L. CHAFEE, the names of the Senator from Virginia (Mr. ROBB) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2287, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make

grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 2408

At the request of Mr. BINGAMAN, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2408, a bill to authorize the President to award a gold medal on behalf of the Congress to the Navajo Code Talkers in recognition of their contributions to the Nation.

S. 2588

At the request of Mr. BENNETT, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2588, a bill to assist the economic development of the Ute Indian Tribe by authorizing the transfer to the Tribe of Oil Shale Reserve Numbered 2, to protect the Colorado River by providing for the removal of the tailings from the Atlas uranium milling site near Moab, Utah, and for other purposes.

S. 2598

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2598, a bill to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes.

S. 2608

At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 2608, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 2609

At the request of Mr. CRAIG, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2609, a bill to amend the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act to enhance the funds available for grants to States for fish and wildlife conservation projects, and to increase opportunities for recreational hunting, bow hunting, trapping, archery, and fishing, by eliminating chances for waste, fraud, abuse, maladministration, and unauthorized expenditures for administration and implementation of those Acts, and for other purposes.

S. 2612

At the request of Mr. GRAHAM, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2612, a bill to combat Ecstasy trafficking, distribution, and abuse in the United States, and for other purposes.

S. 2700

At the request of Mr. L. CHAFEE, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 2700, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

S. 2703

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2703, a bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 2729

At the request of Mr. CONRAD, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2729, a bill to amend the Internal Revenue Code of 1986 and the Surface Mining Control and Reclamation Act of 1977 to restore stability and equity to the financing of the United Mine Workers of America Combines Benefit Fund by eliminating the liability of reachback operations, to provide additional sources of revenue to the Fund, and for other purposes.

S. 2739

At the request of Mr. LAUTENBERG, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Alabama (Mr. SESSIONS), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2739, a bill to amend title 39, United States Code, toprovide for the issuance of a semipostal stamp in order to afford the public a convenient way to contribute to funding for the establishment of the World War II Memorial.

S. 2769

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2769, a bill to authorize funding for National Instant Criminal Background Check System improvements.

S. 2793

At the request of Mr. HOLLINGS, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2793, a bill to amend the Communications Act of 1934 to strengthen the limitation on holding and transfer of broadcast licenses to foreign persons, and to apply a similar limitation to holding and transfer of other telecommunications media by or to foreign governments.

S. 2806

At the request of Mr. SARBANES, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2806, a bill to amend the National Housing Act to clarify the authority of the Secretary of Housing and Urban Development to terminate mortgagee origination approval for poorly performing mortgagees.

S. 2807

At the request of Mr. BREAUX, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Washington (Mr. GORTON) were added as cosponsors of S. 2807, a bill to amend the Social Security Act to establish a Medicare Prescription Drug and Supplemental Benefit Program and to stabilize and improve the Medicare+Choice program, and for other purposes.

S. 2815

At the request of Mr. CLELAND, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2815, a bill to provide for the nationwide designation of 2–1–1 as a toll-free telephone number for access to information and referrals on human services, to encourage the deployment of the toll-free telephone number, and for other purposes.

S. CON. RES. 60

At the request of Mr. FEINGOLD, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Georgia (Mr. CLELAND), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. Con. Res. 60, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 123

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 123, a concurrent resolution expressing the sense of the Congress regarding manipulation of the mass and intimidation of the independent press in the Russian Federation, expressing support for freedom of speech and the independent media in the Russian Federation, and calling on the President of the United States to express his strong concern for freedom of speech and the independent media in the Russian Federation.

S. CON. RES. 128

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. Con. Res. 128, a concurrent resolution to urge the Nobel Commission to award the Nobel Prize for Peace to His Holiness, Pope John Paul II, for his dedication to fostering peace throughout the world.

S. RES. 268

At the request of Mr. EDWARDS, the names of the Senator from Michigan (Mr. ABRAHAM), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. Res. 268, a resolution designating July 17 through July 23 as ''National Fragile X Awareness Week.''

S. RES. 294

At the request of Mr. ABRAHAM, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 294, a resolution designating the month of October 2000 as ''Children's Internet Safety Month.''

S. RES. 304

At the request of Mr. BIDEN, the names of the Senator from New Mexico

(Mr. BINGAMAN), the Senator from Vermont (Mr. JEFFORDS), the Senator from Indiana (Mr. BAYH), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 304, a resolution expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week that includes Veterans Day as ''National Veterans Awareness Week'' for the presentation of such educational programs.

S. RES. 332

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 332, a resolution expressing the sense of the Senate with respect to the peace process in Northern Ireland.

AMENDMENT NO. 3751

At the request of Mr. BENNETT, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 3751 proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SENATE RESOLUTION 334—EXPRESSING APPRECIATION TO THE PEOPLE OF OKINAWA FOR HOSTING UNITED STATES DEFENSE FACILITIES, COMMENDING THE GOVERNMENT OF JAPAN FOR CHOOSING OKINAWA AS THE SITE FOR HOSTING THE SUMMIT MEETING OF THE G–8 COUNTRIES, AND FOR OTHER PURPOSES

Mr. INOUYE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 334

Whereas the Treaty of Mutual Cooperation and Security between the United States and Japan, signed at Washington January 19, 1960 (11 UST 1632), serves the common security needs of the United States and Japan and is the foundation of peace and stability in East Asia;

Whereas the maintenance of the forward-based elements of the Armed Forces of the United States gives credibility to the United States role in the region;

Whereas the largest United States military bases in East Asia are in Okinawa;

Whereas, in attending the summit meeting of the G-8 countries in Okinawa in July 2000, President Clinton will be making the first visit by a United States President to Okinawa;

Whereas the late Keizo Obuchi, former Prime Minister of Japan, strongly supported the choice of Okinawa as the site for the summit meeting of the G-8 countries and devoted much energy to Okinawan affairs;

Whereas Prime Minister Yoshiro Mori of Japan is deeply committed to the successful hosting of the summit meeting of the G-8 countries in Okinawa and to the development of the prefecture of Okinawa; and

Whereas Governor Keichi Inamine of Okinawa and the people of Okinawa have shown their desire to play a significantly greater role in regional and global affairs through their hosting of the summit meeting of the G-8 countries and other initiatives: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its deep appreciation to the people of Okinawa for hosting the United States military facilities in Okinawa, which are of vital importance to peace and stability in East Asia;

(2) commends the Government of Japan for its choice of Okinawa as the site for hosting the leaders of the G-8 countries;

(3) expresses hope for a successful summit meeting of the G-8 countries; and

(4) urges the President to work with the leaders of Japan to devise a joint United States-Japan education initiative that strengthens the human resource base in Okinawa, particularly with a view to meeting Okinawa's economic needs and Asia-Pacific aspirations.

SEC. 2. In this resolution, the term ''G-8 countries'' means the group of countries consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, Italy, and Russia established to facilitate economic cooperation among the eight major economic powers.

AMENDMENTS SUBMITTED

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

WELLSTONE (AND GRAMS) AMENDMENT NO. 3771

(Ordered to lie on the table.)

Mr. WELLSTONE (for himself and Mr. GRAMS) submitted an amendment intended to be proposed by them to the bill (H.R. 4578) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert:

NATIONAL FOREST SYSTEM

For an additional amount for 'National Forest System' for emergency expenses resulting from damages from wind storms, $7,249,000, to become available upon enactment of this act and to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined by such Act, is transmitted by the President to the Congress.

WELLSTONE AMENDMENT NO. 3772

Mr. WELLSTONE (for himself and Mr. GRAMS) proposed an amendment to the bill 4578, supra; as follows:

On page 165, between lines 18 and 19, insert the following:

For an additional amount for emergency expenses resulting from damage from windstorms, $7,249,000, to become available upon enactment of this Act, and to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that the President submits to Congress an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.): *Provided further*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

GORTON AMENDMENT NO. 3773

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill, H.R. 4578, supra; as follows:

On page 167, line 15 of the bill, insert the number ''0'' between the numbers ''1'' and ''5''.

STEVENS AMENDMENT NO. 3774

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, H.R. 4578, supra; as follows:

At the appropriate place insert the following:

SEC. . Sections 5104, 5106 and 5109 of division B of H.R. 4425 as presented to the President on July 1, 2000 (106th Congress), are repealed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

DOMENICI AMENDMENT NO. 3775

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 353, between lines 15 and 16, insert the following:

SEC. 914. COORDINATION AND FACILITATION OF DEVELOPMENT OF DIRECTED ENERGY TECHNOLOGIES, SYSTEMS, AND WEAPONS.

(a) FINDINGS.—Congress makes the following findings:

(1) Directed energy systems are available to address many current challenges with respect to military weapons, including offensive weapons and defensive weapons.

(2) Directed energy weapons offer the potential to maintain an asymmetrical technological edge over adversaries of the United States for the foreseeable future.

(3) It is in the national interest that funding for directed energy science and technology programs be increased in order to support priority acquisition programs and to develop new technologies for future applications.

(4) It is in the national interest that the level of funding for directed energy science and technology programs correspond to the level of funding for large-scale demonstration programs in order to ensure the growth

of directed energy science and technology programs and to ensure the successful development of other weapons systems utilizing directed energy systems.

(5) The industrial base for several critical directed energy technologies is in fragile condition and lacks appropriate incentives to make the large-scale investments that are necessary to address current and anticipated Department of Defense requirements for such technologies.

(6) It is in the national interest that the Department of Defense utilize and expand upon directed energy research currently being conducted by the Department of Energy, other Federal agencies, the private sector, and academia.

(7) It is increasingly difficult for the Federal Government to recruit and retain personnel with skills critical to directed energy technology development.

(8) The implementation of the recommendations contained in the High Energy Laser Master Plan of the Department of Defense is in the national interest.

(9) Implementation of the management structure outlined in the Master Plan will facilitate the development of revolutionary capabilities in directed energy weapons by achieving a coordinated and focused investment strategy under a new management structure featuring a joint technology office with senior-level oversight provided by a technology council and a board of directors.

(b) COORDINATION AND OVERSIGHT UNDER HIGH ENERGY LASER MASTER PLAN.—(1) Subchapter II of Chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 204. Joint Technology Office

''(a) ESTABLISHMENT.—(1) There is in the Department of Defense a Joint Technology Office (in this section referred to as the 'Office'). The Office shall be considered an independent office within the Office of the Secretary of Defense.

''(2) The Secretary of Defense may delegate responsibility for authority, direction, and control of the Office to the Deputy Under Secretary of Defense for Science and Technology.

''(b) DIRECTOR.—(1) The head of the Office shall be a civilian employee of the Department of Defense in the Senior Executive Service who is designated by the Secretary of Defense for that purpose. The head of the Office shall be known as the 'Director of the Joint Technology Office'.

''(2) The Director shall report directly to the Deputy Under Secretary of Defense for Science and Technology.

''(c) OTHER STAFF.—The Secretary of Defense shall provide the Office such civilian and military personnel and other resources as are necessary to permit the Office to carry out its duties under this section.

''(d) DUTIES.—The duties of the Office shall be to—

''(1) develop and oversee the management of a Department of Defense-wide program of science and technology relating to directed energy technologies, systems, and weapons;

''(2) serve as a point of coordination for initiatives for science and technology relating to directed energy technologies, systems, and weapons from throughout the Department of Defense;

''(3) develop and promote a program (to be known as the 'National Directed Energy Technology Alliance') to foster the exchange of information and cooperative activities on directed energy technologies, systems, and weapons between and among the Department of Defense, other Federal agencies, institutions of higher education, and the private sector;

''(4) initiate and oversee the coordination of the high-energy laser and high power microwave programs and offices of the military departments; and

''(5) carry out such other activities relating to directed energy technologies, systems, and weapons as the Deputy Under Secretary of Defense for Science and Technology considers appropriate.

''(e) COORDINATION WITHIN DEPARTMENT OF DEFENSE.—(1) The Director of the Office shall assign to appropriate personnel of the Office the performance of liaison functions with the other Defense Agencies and with the military departments.

''(2) The head of each military department and Defense Agency having an interest in the activities of the Office shall assign personnel of such department or Defense Agency to assist the Office in carrying out its duties. In providing such assistance, such personnel shall be known collectively as 'Technology Area Working Groups'.

''(f) JOINT TECHNOLOGY BOARD OF DIRECTORS.—(1) There is established in the Department of Defense a board to be known as the 'Joint Technology Board of Directors' (in this section referred to as the 'Board').

''(2) The Board shall be composed of 9 members as follows:

''(A) The Under Secretary of Defense for Acquisition and Technology, who shall serve as chairperson of the Board.

''(B) The Director of Defense Research and Engineering, who shall serve as vice-chairperson of the Board.

''(C) The senior acquisition executive of the Department of the Army.

''(D) The senior acquisition executive of the Department of the Navy.

''(E) The senior acquisition executive of the Department of the Air Force.

''(F) The senior acquisition executive of the Marine Corps.

''(G) The Director of the Defense Advanced Research Projects Agency.

''(H) The Director of the Ballistic Missile Defense Organization.

''(I) The Director of the Defense Threat Reduction Agency.

''(3) The duties of the Board shall be—

''(A) to review and comment on recommendations made and issues raised by the Council under this section; and

''(B) to review and oversee the activities of the Office under this section.

''(g) JOINT TECHNOLOGY COUNCIL.—(1) There is established in the Department of Defense a council to be known as the 'Joint Technology Council' (in this section referred to as the 'Council').

''(2) The Council shall be composed of 8 members as follows:

''(A) The Deputy Under Secretary of Defense for Science and Technology, who shall be chairperson of the Council.

''(B) The senior science and technology executive of the Department of the Army.

''(C) The senior science and technology executive of the Department of the Navy.

''(D) The senior science and technology executive of the Department of the Air Force.

''(E) The senior science and technology executive of the Marine Corps.

''(F) The senior science and technology executive of the Defense Advanced Research Projects Agency.

''(G) The senior science and technology executive of the Ballistic Missile Defense Organization.

''(H) The senior science and technology executive of the Defense Threat Reduction Agency.

''(3) The duties of the Council shall be—

''(A) to review and recommend priorities among programs, projects, and activities proposed and evaluated by the Office under this section;

''(B) to make recommendations to the Board regarding funding for such programs, projects, and activities; and

''(C) to otherwise review and oversee the activities of the Office under this section.''.

(2) The table of sections at the beginning of subchapter II of chapter 8 of such title is amended by adding at the end the following new section:

''204. Joint Technology Office.''.

(3)(A) The Secretary of Defense shall locate the Joint Technology Office under section 204 of title 10, United States Code (as added by this subsection), at a location determined appropriate by the Secretary, not later than October 1, 2000.

(B) In determining the location of the Office, the Secretary shall, in consultation with the Deputy Under Secretary of Defense for Science and Technology, evaluate whether to locate the Office at a site at which occur a substantial proportion of the directed energy research, development, test, and evaluation activities of the Department of Defense.

(c) TECHNOLOGY AREA WORKING GROUPS UNDER HIGH ENERGY LASER MASTER PLAN.—The Secretary of Defense shall provide for the implementation of the portion of the High Energy Laser Master Plan relating to technology area working groups.

(d) ENHANCEMENT OF INDUSTRIAL BASE.—(1) The Secretary of Defense shall develop and undertake initiatives, including investment initiatives, for purposes of enhancing the industrial base for directed energy technologies and systems.

(2) Initiatives under paragraph (1) shall be designed to—

(A) stimulate the development by institutions of higher education and the private sector of promising directed energy technologies and systems; and

(B) stimulate the development of a workforce skilled in such technologies and systems.

(e) ENHANCEMENT OF TEST AND EVALUATION CAPABILITIES.—The Secretary of Defense shall consider modernizing the High Energy Laser Test Facility at White Sands Missile Range, New Mexico, in order to enhance the test and evaluation capabilities of the Department of Defense with respect to directed energy weapons.

(f) COOPERATIVE PROGRAMS AND ACTIVITIES.—(1) The Secretary of Defense shall evaluate the feasibility and advisability of entering into cooperative programs or activities with other Federal agencies, institutions of higher education, and the private sector, including the national laboratories of the Department of Energy, for the purpose of enhancing the programs, projects, and activities of the Department of Defense relating to directed energy technologies, systems, and weapons. The Secretary shall carry out the evaluation in consultation with the Joint Technology Board of Directors established by section 204 of title 10, United States Code (as added by subsection (b) of this section).

(2) The Secretary shall enter into any cooperative program or activity determined under the evaluation under paragraph (1) to be feasible and advisable for the purpose set forth in that paragraph.

(g) PARTICIPATION OF JOINT TECHNOLOGY COUNCIL IN ACTIVITIES.—The Secretary of Defense shall, to the maximum extent practicable, carry out activities under subsections (c), (d), (e), and (f), through the Joint Technology Council established pursuant to section 204 of title 10, United States Code.

(h) FUNDING FOR FISCAL YEAR 2001.—(1)(A) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide, up to $50,000,000 may be available for science and technology activities relating to directed energy technologies, systems, and weapons.

(2) The Director of the Joint Technology Office established pursuant to section 204 of title 10, United States Code, shall allocate amounts available under paragraph (1) among appropriate program elements of the Department of Defense, and among cooperative programs and activities under this section, in accordance with such procedures as the Director shall establish.

(3) In establishing procedures for purposes of the allocation of funds under paragraph (2), the Director shall provide for the competitive selection of programs, projects, and activities to be the recipients of such funds.

(i) DIRECTED ENERGY DEFINED.—In this section, the term ''directed energy'', with respect to technologies, systems, or weapons, means technologies, systems, or weapons that provide for the directed transmission of energies across the energy and frequency spectrum, including high energy lasers and high power microwaves.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

SHELBY AMENDMENT NO. 3776

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to the bill, H.R. 4578, supra; as follows:

On page 163, after line 23, insert the following:

SEC. 1___. MIGRATORY BIRD TREATY ACT PENALTIES.

Section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707) is amended—

(1) in subsection (a), by striking ''$15,000'' and inserting ''$5,000''; and

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

''(c) PLACEMENT OF BAIT.—Notwithstanding section 3571 of title 18, United States Code—

''(1) an individual who violates section 3(b)(2) shall be fined not more than $5,000, imprisoned not more than 180 days, or both; and

''(2) a person, other than an individual, that violates section 3(b)(2) shall be fined not more than $10,000, imprisoned not more than 180 days, or both.''.

DISABLED VETERANS' LIFE MEMORIAL LEGISLATION

THOMAS AMENDMENT NO. 3777

Mr. WARNER (for Mr. THOMAS) proposed an amendment to the bill (S. 311) to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes; as follows:

On page 2, line 1, strike ''American''.

On page 2, line 10, strike ''American''.

On page 3, after line 16, insert the following new section and redesignate the following sections accordingly:

''SEC. 201 SHORT TITLE.

''This title may be cited as the ''Commemorative Works Clarification and Revision Act of 2000''.

4. On page 8, line 6, through page 9, line 6, strike subsection (h) in its entirety and insert the following:

''(h) Section 8 of the Act (40 U.S.C. 1008) is amended as follows:

''(1) In subsection (a)(3) and (a)(4) and in subsection (b) by striking ''person'' each place it appears and inserting ''sponsor'';

''(2) By amending subsection (b) to read as follows:

''(b) In addition to the foregoing criteria, no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. All such proceeds shall be available for the nonrecurring repair of the sponsor's commemorative work pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources.

''(1) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of this subsection provided by a sponsor for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

''(2) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2000 shall be credited to a separate account with the National Park Foundation.

''(3) Upon request, the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (1) or (2). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended.''; and

''(3) By amending subsection (c) to read as follows:

''(c) The sponsor shall be required to submit to the Secretary or the Administrator (as appropriate) an annual report of operations, including financial statements audited by an independent certified public accountant, paid for by the sponsor authorized to construct the commemorative work.''.

5. On page 10, after line 17, insert the following:

''SEC. 204. PREVIOUSLY APPROVED MEMORIALS.

''Nothing in this title shall apply to a memorial whose site was approved, in accordance with the Commemorative Works Act of 1986 (Public Law 99–652; 40 U.S.C. 1001 et seq.), prior to the date of enactment of this title.''.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, July 12, 2000 at 2:30 p.m. in room 485 of the Russell Senate Building to conduct an oversight hearing on the reports of the Bureau of Indian Affairs and the General Accounting Office on Risk Management and Tort Liability.

Those wishing additional information may contact committee staff at 202/224–2251.

PRIVILEGES OF THE FLOOR

Mr. GORTON. Mr. President, I ask unanimous consent that Sheila Sweeney and Scott Dalzell, detailees to the Appropriations Committee, be granted floor privileges for the duration of debate on the fiscal year 2001 Interior appropriations bill.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Dan Alpert, a fellow in my office, be allowed floor privileges during the pendency of this bill.

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

ELECTRIC RELIABILITY 2000 ACT

On June 30, 2000, the Senate passed S. 2071. the Electric Reliability 2000 Act, as follows:

S. 2071

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 ''Electric Reliability 2000 Act''.

SEC. 2. ELECTRIC RELIABILITY ORGANIZATION.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC RELIABILITY ORGANIZATION.

''(a) DEFINITIONS.—In this section:

''(1) AFFILIATED REGIONAL RELIABILITY ENTITY.—The term 'affiliated regional reliability entity' means an entity delegated authority under subsection (h).

''(2) BULK-POWER SYSTEM.—

''(A) IN GENERAL.—The term 'bulk-power system' means all facilities and control systems necessary for operating an interconnected electric power transmission grid or any portion of an interconnected transmission grid.

''(B) INCLUSIONS.—The term 'bulk-power system' includes—

''(i) high voltage transmission lines, substations, control centers, communications, data, and operations planning facilities necessary for the operation of all or any part of the interconnected transmission grid; and

''(ii) the output of generating units necessary to maintain the reliability of the transmission grid.

''(3) BULK-POWER SYSTEM USER.—The term 'bulk-power system user' means an entity that—

''(A) sells, purchases, or transmits electric energy over a bulk-power system; or

''(B) owns, operates, or maintains facilities or control systems that are part of a bulk-power system; or

''(C) is a system operator.

''(4) ELECTRIC RELIABILITY ORGANIZATION.—The term 'electric reliability organization' means the organization designated by the Commission under subsection (d).

''(5) ENTITY RULE.—The term 'entity rule' means a rule adopted by an affiliated regional reliability entity for a specific region and designed to implement or enforce 1 or more organization standards.

''(6) INDEPENDENT DIRECTOR.—The term 'independent director' means a person that—

''(A) is not an officer or employee of an entity that would reasonably be perceived as having a direct financial interest in the outcome of a decision by the board of directors of the electric reliability organization; and

''(B) does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director of the electric reliability organization.

''(7) INDUSTRY SECTOR.—The term 'industry sector' means a group of bulk-power system users with substantially similar commercial interests, as determined by the board of directors of the electric reliability organization.

''(8) INTERCONNECTION.—The term 'interconnection' means a geographic area in which the operation of bulk-power system components is synchronized so that the failure of 1 or more of the components may adversely affect the ability of the operators of other components within the interconnection to maintain safe and reliable operation of the facilities within their control.

''(9) ORGANIZATION STANDARD.—

''(A) IN GENERAL.—The term 'organization standard' means a policy or standard adopted by the electric reliability organization to provide for the reliable operation of a bulk-power system.

''(B) INCLUSIONS.—The term 'organization standard' includes—

''(i) an entity rule approved by the electric reliability organization; and

''(ii) a variance approved by the electric reliability organization.

''(10) PUBLIC INTEREST GROUP.—

''(A) IN GENERAL.—The term 'public interest group' means a nonprofit private or public organization that has an interest in the activities of the electric reliability organization.

''(B) INCLUSIONS.—The term 'public interest group' includes—

''(i) a ratepayer advocate;

''(ii) an environmental group; and

''(iii) a State or local government organization that regulates participants in, and promulgates government policy with respect to, the market for electric energy.

''(11) SYSTEM OPERATOR.—

''(A) IN GENERAL.—The term 'system operator' means an entity that operates or is responsible for the operation of a bulk-power system.

''(B) INCLUSIONS.—The term 'system operator' includes—

''(i) a control area operator;

''(ii) an independent system operator;

''(iii) a transmission company;

''(iv) a transmission system operator; and

''(v) a regional security coordinator.

''(12) VARIANCE.—The term 'variance' means an exception from the requirements of an organization standard (including a proposal for an organization standard in a case in which there is no organization standard) that is adopted by an affiliated regional reliability entity and is applicable to all or a part of the region for which the affiliated regional reliability entity is responsible.

''(b) COMMISSION AUTHORITY.—

''(1) JURISDICTION.—Notwithstanding section 201(f), within the United States, the Commission shall have jurisdiction over the electric reliability organization, all affiliated regional reliability entities, all system operators, and all bulk-power system users, including entities described in section 201(f), for purposes of approving organization standards and enforcing compliance with this section.

''(2) DEFINITION OF TERMS.—The Commission may by regulation define any term used in this section consistent with the definitions in subsection (a) and the purpose and intent of this Act.

''(c) EXISTING RELIABILITY STANDARDS.—

''(1) SUBMISSION TO THE COMMISSION.—Before designation of an electric reliability organization under subsection (d), any person, including the North American Electric Reliability Council and its member Regional Reliability Councils, may submit to the Commission any reliability standard, guidance, practice, or amendment to a reliability standard, guidance, or practice that the person proposes to be made mandatory and enforceable.

''(2) REVIEW BY THE COMMISSION.—The Commission, after allowing interested persons an opportunity to submit comments, may approve a proposed mandatory standard, guidance, practice, or amendment submitted under paragraph (1) if the Commission finds that the standard, guidance, or practice is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(3) EFFECT OF APPROVAL.—A standard, guidance, or practice shall be mandatory and applicable according to its terms following approval by the Commission and shall remain in effect until it is—

''(A) withdrawn, disapproved, or superseded by an organization standard that is issued or approved by the electric reliability organization and made effective by the Commission under subsection (e); or

''(B) disapproved by the Commission if, on complaint or upon motion by the Commission and after notice and an opportunity for comment, the Commission finds the standard, guidance, or practice to be unjust, unreasonable, unduly discriminatory or preferential, or not in the public interest.

''(4) ENFORCEABILITY.—A standard, guidance, or practice in effect under this subsection shall be enforceable by the Commission.

''(d) DESIGNATION OF ELECTRIC RELIABILITY ORGANIZATION.—

''(1) REGULATIONS.—

''(A) PROPOSED REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Commission shall propose regulations specifying procedures and requirements for an entity to apply for designation as the electric reliability organization.

''(B) NOTICE AND COMMENT.—The Commission shall provide notice and opportunity for comment on the proposed regulations.

''(C) FINAL REGULATION.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate final regulations under this subsection.

''(2) APPLICATION.—

''(A) Submission.—Following the promulgation of final regulations under paragraph (1), an entity may submit an application to the Commission for designation as the electric reliability organization.

''(B) CONTENTS.—The applicant shall describe in the application—

''(i) the governance and procedures of the applicant; and

''(ii) the funding mechanism and initial funding requirements of the applicant.

''(3) NOTICE AND COMMENT.—The Commission shall—

''(A) provide public notice of the application; and

''(B) afford interested parties an opportunity to comment.

''(4) DESIGNATION OF ELECTRIC RELIABILITY ORGANIZATION.—The Commission shall designate the applicant as the electric reliability organization if the Commission determines that the applicant—

''(A) has the ability to develop, implement, and enforce standards that provide for an adequate level of reliability of bulk-power systems;

''(B) permits voluntary membership to any bulk-power system user or public interest group;

''(C) ensures fair representation of its members in the selection of its directors and fair management of its affairs, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of organization standards and the exercise of oversight of bulk-power system reliability;

''(D) ensures that no 2 industry sectors have the ability to control, and no 1 industry sector has the ability to veto, the applicant's discharge of its responsibilities as the electric reliability organization (including actions by committees recommending standards for approval by the board or other board actions to implement and enforce standards);

''(E) provides for governance by a board wholly comprised of independent directors;

''(F) provides a funding mechanism and requirements that—

''(i) are just, reasonable, not unduly discriminatory or preferential and in the public interest; and

''(ii) satisfy the requirements of subsection (l);

''(G) has established procedures for development of organization standards that—

''(i) provide reasonable notice and opportunity for public comment, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of organization standards;

''(ii) ensure openness, a balancing of interests, and due process; and

''(iii) includes alternative procedures to be followed in emergencies;

''(H) has established fair and impartial procedures for implementation and enforcement of organization standards, either directly or through delegation to an affiliated regional reliability entity, including the imposition of penalties, limitations on activities, functions, or operations, or other appropriate sanctions;

''(I) has established procedures for notice and opportunity for public observation of all meetings, except that the procedures for public observation may include alternative procedures for emergencies or for the discussion of information that the directors reasonably determine should take place in closed session, such as litigation, personnel actions, or commercially sensitive information;

''(J) provides for the consideration of recommendations of States and State commissions; and

''(K) addresses other matters that the Commission considers appropriate to ensure that the procedures, governance, and funding of the electric reliability organization are just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(5) EXCLUSIVE DESIGNATION.—

''(A) IN GENERAL.—The Commission shall designate only 1 electric reliability organization.

''(B) MULTIPLE APPLICATIONS.—If the Commission receives 2 or more timely applications that satisfy the requirements of this subsection, the Commission shall approve only the application that the Commission determines will best implement this section.

''(e) ORGANIZATION STANDARDS.—

''(1) SUBMISSION OF PROPOSALS TO COMMISSION.—

''(A) IN GENERAL.—The electric reliability organization shall submit to the Commission proposals for any new or modified organization standards.

''(B) CONTENTS.—A proposal submitted under subparagraph (A) shall include—

''(i) a concise statement of the purpose of the proposal; and

''(ii) a record of any proceedings conducted with respect to the proposal.

''(2) REVIEW BY THE COMMISSION.—

''(A) NOTICE AND COMMENT.—The Commission shall—

''(i) provide notice of a proposal under paragraph (1); and

''(ii) allow interested persons 30 days to submit comments on the proposal.

''(B) ACTION BY THE COMMISSION.—

''(i) IN GENERAL.—After taking into consideration any submitted comments, the Commission shall approve or disapprove a proposed organization standard not later than the end of the 60-day period beginning on the date of the deadline for the submission of comments, except that the Commission may extend the 60-day period for an additional 90 days for good cause.

''(ii) FAILURE TO ACT.—If the Commission does not approve or disapprove a proposal within the period specified in clause (i), the proposed organization standard shall go into effect subject to its terms, without prejudice to the authority of the Commission to modify the organization standard in accordance with the standards and requirements of this section.

''(C) EFFECTIVE DATE.—An organization standard approved by the Commission shall take effect not earlier than 30 days after the date of the Commission's order of approval.

''(D) STANDARDS FOR APPROVAL.—

''(i) IN GENERAL.—The Commission shall approve a proposed new or modified organization standard if the Commission determines the organization standard to be just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(ii) CONSIDERATIONS.—In the exercise of its review responsibilities under this subsection, the Commission—

''(I) shall give due weight to the technical expertise of the electric reliability organization with respect to the content of a new or modified organization standard; but

''(II) shall not defer to the electric reliability organization with respect to the effect of the organization standard on competition.

''(E) REMAND.—A proposed organization standard that is disapproved in whole or in part by the Commission shall be remanded to the electric reliability organization for further consideration.

''(3) ORDERS TO DEVELOP OR MODIFY ORGANIZATION STANDARDS.—The Commission, on complaint or on motion of the Commission, may order the electric reliability organization to develop and submit to the Commission, by a date specified in the order, an organization standard or modification to an existing organization standard to address a specific matter if the Commission considers a new or modified organization standard appropriate to carry out this section, and the electric reliability organization shall develop and submit the organization standard or modification to the Commission in accordance with this subsection.

''(4) VARIANCES AND ENTITY RULES.—

''(A) PROPOSAL.—An affiliated regional reliability entity may propose a variance or entity rule to the electric reliability organization.

''(B) EXPEDITED CONSIDERATION.—If expedited consideration is necessary to provide for bulk-power system reliability, the affiliated regional reliability entity may—

''(i) request that the electric reliability organization expedite consideration of the proposal; and

''(ii) file a notice of the request with the Commission.

''(C) FAILURE TO ACT.—

''(i) IN GENERAL.—If the electric reliability organization fails to adopt the variance or entity rule, in whole or in part, the affiliated regional reliability entity may request that the Commission review the proposal.

''(ii) ACTION BY THE COMMISSION.—If the Commission determines, after a review of the request, that the action of the electric reliability organization did not conform to the applicable standards and procedures approved by the Commission, or if the Commission determines that the variance or entity rule is just, reasonable, not unduly discriminatory or preferential, and in the public interest and that the electric reliability organization has unreasonably rejected or failed to act on the proposal, the Commission may—

''(I) remand the proposal for further consideration by the electric reliability organization; or

''(II) order the electric reliability organization or the affiliated regional reliability entity to develop a variance or entity rule consistent with that requested by the affiliated regional reliability entity.

''(D) PROCEDURE.—A variance or entity rule proposed by an affiliated regional reliability entity shall be submitted to the electric reliability organization for review and submission to the Commission in accordance with the procedures specified in paragraph (2).

''(5) IMMEDIATE EFFECTIVENESS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, a new or modified organization standard shall take effect immediately on submission to the Commission without notice or comment if the electric reliability organization—

''(i) determines that an emergency exists requiring that the new or modified organization standard take effect immediately without notice or comment;

''(ii) notifies the Commission as soon as practicable after making the determination;

''(iii) submits the new or modified organization standard to the Commission not later than 5 days after making the determination; and

''(iv) includes in the submission an explanation of the need for immediate effectiveness.

''(B) NOTICE AND COMMENT.—The Commission shall—

''(i) provide notice of the new or modified organization standard or amendment for comment; and

''(ii) follow the procedures set out in paragraphs (2) and (3) for review of the new or modified organization standard.

''(6) COMPLIANCE.—Each bulk power system user shall comply with an organization standard that takes effect under this section.

''(f) COORDINATION WITH CANADA AND MEXICO.—

''(1) RECOGNITION.—The electric reliability organization shall take all appropriate steps to gain recognition in Canada and Mexico.

''(2) INTERNATIONAL AGREEMENTS.—

''(A) IN GENERAL.—The President shall use best efforts to enter into international agreements with the appropriate governments of Canada and Mexico to provide for—

''(i) effective compliance with organization standards; and

''(ii) the effectiveness of the electric reliability organization in carrying out its mission and responsibilities.

''(B) COMPLIANCE.—All actions taken by the electric reliability organization, an affiliated regional reliability entity, and the Commission shall be consistent with any international agreement under subparagraph (A).

''(g) CHANGES IN PROCEDURE, GOVERNANCE, OR FUNDING.—

''(1) SUBMISSION TO THE COMMISSION.—The electric reliability organization shall submit to the Commission—

''(A) any proposed change in a procedure, governance, or funding provision; or

''(B) any change in an affiliated regional reliability entity's procedure, governance, or funding provision relating to delegated functions.

''(2) CONTENTS.—A submission under paragraph (1) shall include an explanation of the basis and purpose for the change.

''(3) EFFECTIVENESS.—

''(A) CHANGES IN PROCEDURE.—

''(i) CHANGES CONSTITUTING A STATEMENT OF POLICY, PRACTICE, OR INTERPRETATION.—A proposed change in procedure shall take effect 90 days after submission to the Commission if the change constitutes a statement of policy, practice, or interpretation with respect to the meaning or enforcement of the procedure.

''(ii) OTHER CHANGES.—A proposed change in procedure other than a change described in clause (i) shall take effect on a finding by the Commission, after notice and opportunity for comment, that the change—

''(I) is just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(II) satisfies the requirements of subsection (d)(4).

''(B) CHANGES IN GOVERNANCE OR FUNDING.—A proposed change in governance or funding shall not take effect unless the Commission finds that the change—

''(i) is just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(ii) satisfies the requirements of subsection (d)(4).

''(4) ORDER TO AMEND.—

''(A) IN GENERAL.—The Commission, on complaint or on the motion of the Commission, may require the electric reliability organization to amend a procedural, governance, or funding provision if the Commission determines that the amendment is necessary to meet the requirements of the section.

''(B) FILING.—The electric reliability organization shall submit the amendment in accordance with paragraph (1).

''(h) DELEGATIONS OF AUTHORITY.—

''(1) IN GENERAL.—

''(A) IMPLEMENTATION AND ENFORCEMENT OF COMPLIANCE.—At the request of an entity, the electric reliability organization shall enter into an agreement with the entity for the delegation of authority to implement and enforce compliance with organization standards in a specified geographic area if the electric reliability organization finds that—

''(i) the entity satisfies the requirements of subparagraphs (A), (B), (C), (D), (F), (J), and (K) of subsection (d)(4); and

''(ii) the delegation would promote the effective and efficient implementation and administration of bulk-power system reliability.

''(B) OTHER AUTHORITY.—The electric reliability organization may enter into an agreement to delegate to an entity any other authority, except that the electric reliability organization shall reserve the right to set and approve standards for bulk-power system reliability.

''(2) APPROVAL BY THE COMMISSION.—

''(A) SUBMISSION TO THE COMMISSION.—The electric reliability organization shall submit to the Commission—

''(i) any agreement entered into under this subsection; and

''(ii) any information the Commission requires with respect to the affiliated regional reliability entity to which authority is delegated.

''(B) STANDARDS FOR APPROVAL.—The Commission shall approve the agreement, following public notice and an opportunity for comment, if the Commission finds that the agreement—

''(i) meets the requirements of paragraph (1); and

''(ii) is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(C) REBUTTABLE PRESUMPTION.—A proposed delegation agreement with an affiliated regional reliability entity organized on an interconnection-wide basis shall be rebuttably presumed by the Commission to

promote the effective and efficient implementation and administration of the reliability of the bulk-power system.

''(D) INVALIDITY ABSENT APPROVAL.—No delegation by the electric reliability organization shall be valid unless the delegation is approved by the Commission.

''(3) PROCEDURES FOR ENTITY RULES AND VARIANCES.—

''(A) IN GENERAL.—A delegation agreement under this subsection shall specify the procedures by which the affiliated regional reliability entity may propose entity rules or variances for review by the electric reliability organization.

''(B) INTERCONNECTION-WIDE ENTITY RULES AND VARIANCES.—In the case of a proposal for an entity rule or variance that would apply on an interconnection-wide basis, the electric reliability organization shall approve the entity rule or variance unless the electric reliability organization makes a written finding that the entity rule or variance—

''(i) was not developed in a fair and open process that provided an opportunity for all interested parties to participate;

''(ii) would have a significant adverse impact on reliability or commerce in other interconnections;

''(iii) fails to provide a level of reliability of the bulk-power system within the interconnection such that the entity rule or variance would be likely to cause a serious and substantial threat to public health, safety, welfare, or national security; or

''(iv) would create a serious and substantial burden on competitive markets within the interconnection that is not necessary for reliability.

''(C) NONINTERCONNECTION-WIDE ENTITY RULES AND VARIANCES.—In the case of a proposal for an entity rule or variance that would apply only to part of an interconnection, the electric reliability organization shall approve the entity rule or variance if the affiliated regional reliability entity demonstrates that the proposal—

''(i) was developed in a fair and open process that provided an opportunity for all interested parties to participate;

''(ii) would not have an adverse impact on commerce that is not necessary for reliability;

''(iii) provides a level of bulk-power system reliability that is adequate to protect public health, safety, welfare, and national security and would not have a significant adverse impact on reliability; and

''(iv) in the case of a variance, is based on a justifiable difference between regions or subregions within the affiliated regional reliability entity's geographic area.

''(D) ACTION BY THE ELECTRIC RELIABILITY ORGANIZATION.—

''(i) IN GENERAL.—The electric reliability organization shall approve or disapprove a proposal under subparagraph (A) within 120 days after the proposal is submitted.

''(ii) FAILURE TO ACT.—If the electric reliability organization fails to act within the time specified in clause (i), the proposal shall be deemed to have been approved.

''(iii) SUBMISSION TO THE COMMISSION.—After approving a proposal under subparagraph (A), the electric reliability organization shall submit the proposal to the Commission for approval under the procedures prescribed under subsection (e).

''(E) DIRECT SUBMISSIONS.—An affiliated regional reliability entity may not submit a proposal for approval directly to the Commission except as provided in subsection (e)(4).

''(4) FAILURE TO REACH DELEGATION AGREEMENT.—

''(A) IN GENERAL.—If an affiliated regional reliability entity requests, consistent with paragraph (1), that the electric reliability organization delegate authority to it, but is unable within 180 days to reach agreement with the electric reliability organization with respect to the requested delegation, the entity may seek relief from the Commission.

''(B) REVIEW BY THE COMMISSION.—The Commission shall order the electric reliability organization to enter into a delegation agreement under terms specified by the Commission if, after notice and opportunity for comment, the Commission determines that—

''(i) a delegation to the affiliated regional reliability entity would—

''(I) meet the requirements of paragraph (1); and

''(II) would be just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(ii) the electric reliability organization unreasonably withheld the delegation.

''(5) ORDERS TO MODIFY DELEGATION AGREEMENTS.—

''(A) IN GENERAL.—On complaint, or on motion of the Commission, after notice to the appropriate affiliated regional reliability entity, the Commission may order the electric reliability organization to propose a modification to a delegation agreement under this subsection if the Commission determines that—

''(i) the affiliated regional reliability entity—

''(I) no longer has the capacity to carry out effectively or efficiently the implementation or enforcement responsibilities under the delegation agreement;

''(II) has failed to meet its obligations under the delegation agreement; or

''(III) has violated this section;

''(ii) the rules, practices, or procedures of the affiliated regional reliability entity no longer provide for fair and impartial discharge of the implementation or enforcement responsibilities under the delegation agreement;

''(iii) the geographic boundary of a transmission entity approved by the Commission is not wholly within the boundary of an affiliated regional reliability entity, and the difference in boundaries is inconsistent with the effective and efficient implementation and administration of bulk-power system reliability; or

''(iv) the agreement is inconsistent with a delegation ordered by the Commission under paragraph (4).

''(B) SUSPENSION.—

''(i) IN GENERAL.—Following an order to modify a delegation agreement under subparagraph (A), the Commission may suspend the delegation agreement if the electric reliability organization or the affiliated regional reliability entity does not propose an appropriate and timely modification.

''(ii) ASSUMPTION OF RESPONSIBILITIES.—If a delegation agreement is suspended, the electric reliability organization shall assume the responsibilities delegated under the delegation agreement.

''(i) ORGANIZATION MEMBERSHIP.—Each system operator shall be a member of—

''(1) the electric reliability organization; and

''(2) any affiliated regional reliability entity operating under an agreement effective under subsection (h) applicable to the region in which the system operator operates, or is responsible for the operation of, a transmission facility.

''(j) ENFORCEMENT.—

''(1) DISCIPLINARY ACTIONS.—

''(A) IN GENERAL.—Consistent with procedures approved by the Commission under subsection (d)(4)(H), the electric reliability organization may impose a penalty, limitation on activities, functions, or operations, or other disciplinary action that the electric reliability organization finds appropriate against a bulk-power system user if the electric reliability organization, after notice and an opportunity for interested parties to be heard, issues a finding in writing that the bulk-power system user has violated an organization standard.

''(B) NOTIFICATION.—The electric reliability organization shall immediately notify the Commission of any disciplinary action imposed with respect to an act or failure to act of a bulk-power system user that affected or threatened to affect bulk-power system facilities located in the United States.

''(C) RIGHT TO PETITION.—A bulk-power system user that is the subject of disciplinary action under paragraph (1) shall have the right to petition the Commission for a modification or rescission of the disciplinary action.

''(D) INJUNCTIONS.—If the electric reliability organization finds it necessary to prevent a serious threat to reliability, the electric reliability organization may seek injunctive relief in the United States district court for the district in which the affected facilities are located.

''(E) EFFECTIVE DATE.—

''(i) IN GENERAL.—Unless the Commission, on motion of the Commission or on application by the bulk-power system user that is the subject of the disciplinary action, suspends the effectiveness of a disciplinary action, the disciplinary action shall take effect on the 30th day after the date on which—

''(I) the electric reliability organization submits to the Commission—

''(aa) a written finding that the bulk-power system user violated an organization standard; and

''(bb) the record of proceedings before the electric reliability organization; and

''(II) the Commission posts the written finding on the Internet.

''(ii) DURATION.—A disciplinary action shall remain in effect or remain suspended unless the Commission, after notice and opportunity for hearing, affirms, sets aside, modifies, or reinstates the disciplinary action.

''(iii) EXPEDITED CONSIDERATION.—The Commission shall conduct the hearing under procedures established to ensure expedited consideration of the action taken.

''(2) COMPLIANCE ORDERS.—The Commission, on complaint by any person or on motion of the Commission, may order compliance with an organization standard and may impose a penalty, limitation on activities, functions, or operations, or take such other disciplinary action as the Commission finds appropriate, against a bulk-power system user with respect to actions affecting or threatening to affect bulk-power system facilities located in the United States if the Commission finds, after notice and opportunity for a hearing, that the bulk-power system user has violated or threatens to violate an organization standard.

''(3) OTHER ACTIONS.—The Commission may take such action as is necessary against the electric reliability organization or an affiliated regional reliability entity to ensure compliance with an organization standard, or any Commission order affecting electric reliability organization or affiliated regional reliability entity.

''(k) RELIABILITY REPORTS.—The electric reliability organization shall—

''(1) conduct periodic assessments of the reliability and adequacy of the interconnected bulk-power system in North America; and

''(2) report annually to the Secretary of Energy and the Commission its findings and recommendations for monitoring or improving system reliability and adequacy.

''(l) ASSESSMENT AND RECOVERY OF CERTAIN COSTS.—

''(1) IN GENERAL.—The reasonable costs of the electric reliability organization, and the reasonable costs of each affiliated regional reliability entity that are related to implementation or enforcement of organization standards or other requirements contained in a delegation agreement approved under subsection (h), shall be assessed by the electric reliability organization and each affiliated regional reliability entity, respectively, taking into account the relationship of costs to each region and based on an allocation that reflects an equitable sharing of the costs among all electric energy consumers.

''(2) RULES.—The Commission shall provide by rule for the review of costs and allocations under paragraph (1) in accordance with the standards in this subsection and subsection (d)(4)(F).

''(m) APPLICATION OF ANTITRUST LAWS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the following activities are rebuttably presumed to be in compliance with the antitrust laws of the United States:

''(A) Activities undertaken by the electric reliability organization under this section or affiliated regional reliability entity operating under a delegation agreement under subsection (h).

''(B) Activities of a member of the electric reliability organizations or affiliated regional reliability entity in pursuit of the objectives of the electric reliability organization or affiliated regional reliability entity under this section undertaken in good faith under the rules of the organization of the electric reliability organization or affiliated regional reliability entity.

''(2) AVAILABILITY OF DEFENSES.—In a civil action brought by any person or entity against the electric reliability organization or an affiliated regional reliability entity alleging a violation of an antitrust law based on an activity under this Act, the defenses of primary jurisdiction and immunity from suit and other affirmative defenses shall be available to the extent applicable.

''(n) REGIONAL ADVISORY ROLE.—

''(1) ESTABLISHMENT OF REGIONAL ADVISORY BODY.—The Commission shall establish a regional advisory body on the petition of the Governors of at least two-thirds of the States within a region that have more than one-half of their electrical loads served within the region.

''(2) MEMBERSHIP.—A regional advisory body—

''(A) shall be composed of 1 member from each State in the region, appointed by the Governor of the State; and

''(B) may include representatives of agencies, States, and Provinces outside the United States, on execution of an appropriate international agreement described in subsection (f).

''(3) FUNCTIONS.—A regional advisory body may provide advice to the electric reliability organization, an affiliated regional reliability entity, or the Commission regarding—

''(A) the governance of an affiliated regional reliability entity existing or proposed within a region;

''(B) whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(C) whether fees proposed to be assessed within the region are—

''(i) just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(ii) consistent with the requirements of subsection (l).

''(4) DEFERENCE.—In a case in which a regional advisory body encompasses an entire interconnection, the Commission may give deference to advice provided by the regional advisory body under paragraph (3).

''(o) APPLICABILITY OF SECTION.—This section does not apply outside the 48 contiguous States.

''(p) REHEARINGS; COURT REVIEW OF ORDERS.—Section 313 applies to an order of the Commission issued under this section.

''(q) PRESERVATION OF STATE AUTHORITY.—

''(1) The electric reliability organization shall have authority to develop, implement, and enforce compliance with standards for the reliable operation of only the bulk-power system.

''(2) This section does not provide the electric reliability organization or the Commission with the authority to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any organization standard.

''(4) Not later than 90 days after the application of the electric reliability organization or other affected party, the Commission shall issue a final order determining whether a State action is inconsistent with an organization standard, after notice and opportunity for comment, taking into consideration any recommendations of the electric reliability organization.

''(5) The Commission, after consultation with the electric reliability organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.''.

(b) ENFORCEMENT.—

(1) GENERAL PENALTIES.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is amended—

(A) by striking ''subsection'' and inserting ''section''; and

(B) by striking ''or 214'' and inserting ''214 or 215''.

(2) CERTAIN PROVISIONS.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking ''or 214'' each place it appears and inserting ''214, or 215''.

THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, 2001

On June 30, 2000, the Senate amended and passed H.R. 4577, as follows:

Resolved, That the bill from the House of Representatives (H.R. 4577) entitled ''An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

DIVISION A—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For necessary expenses of the Workforce Investment Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act and the National Skill Standards Act of 1994; $2,990,141,000 plus reimbursements, of which $1,718,801,000 is available for obligation for the period July 1, 2001 through June 30, 2002, of which $1,250,965,000 is available for obligation for the period April 1, 2001 through June 30, 2002, including $1,000,965,000 to carry out chapter 4 of the Workforce Investment Act and $250,000,000 to carry out section 169 of such Act; and of which $20,375,000 is available for the period July 1, 2001 through June 30, 2004 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: Provided, That $9,098,000 shall be for carrying out section 172 of the Workforce Investment Act, and $3,500,000 shall be for carrying out the National Skills Standards Act of 1994: Provided further, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: Provided further, That funds provided to carry out section 171(d) of such Act may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: Provided further, That funding provided to carry out projects under section 171 of the Workforce Investment Act of 1998 that are identified in the Conference Agreement, shall not be subject to the requirements of section 171(b)(2)(B) of such Act, the requirements of section 171(c)(4)(D) of such Act, or the joint funding requirements of sections 171(b)(2)(A) and 171(c)(4)(A) of such Act: Provided further, That funding appropriated herein for Dislocated Worker Employment and Training Activities under section 132(a)(2)(A) of the Workforce Investment Act of 1998 may be distributed for Dislocated Worker Projects under section 171(d) of the Act without regard to the 10 percent limitation contained in section 171(d) of the Act.

For necessary expenses of the Workforce Investment Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act; $2,463,000,000 plus reimbursements, of which $2,363,000,000 is available for obligation for the period October 1, 2001 through June 30, 2002, and of which $100,000,000 is available for the period October 1, 2001 through June 30, 2004, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $343,356,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $96,844,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $406,550,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $153,452,000, together with not to exceed $3,095,978,000 (including not to exceed $1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund including the cost of administering section 51 of the Internal Revenue Code of 1986, as amended, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 2001, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2003; and of which $153,452,000, together with not to exceed $763,283,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2001 through June 30, 2002, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose: Provided, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2001 is projected by the Department of Labor to exceed 2,396,000, an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: Provided further, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance programs, may be obligated in contracts, grants or agreements with non-State entities: Provided further, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the ''Federal unemployment benefits and allowances'' account, to remain available until September 30, 2002, $435,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2001, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $107,651,000, including $6,431,000 to support up to 75 full-time equivalent staff, the majority of which will be term Federal appointments lasting no more than 1 year, to administer welfare-to-work grants, together with not to exceed $48,507,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Pension and Welfare Benefits Administration, $103,342,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 2001, for such Corporation: Provided, That not to exceed $11,652,000 shall be available for administrative expenses of the Corporation: Provided further, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $350,779,000, together with $1,985,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d) and 44(j) of the Longshore and Harbor Workers' Compensation Act: Provided, That $2,000,000 shall be for the development of an alternative system for the electronic submission of reports required to be filed under the Labor-Management Reporting and Disclosure Act of 1959, as amended, and for a computer database of the information for each submission by whatever means, that is indexed and easily searchable by the public via the Internet: Provided further, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): Provided further, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the heading ''Civilian War Benefits'' in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $56,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: Provided, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: Provided further, That balances of reimbursements unobligated on September 30, 2000, shall remain available until expended for the payment of compensation, benefits, and expenses: Provided further, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2001: Provided further, That of those funds transferred to this account from the fair share entities to pay the cost of administration, $30,510,000 shall be made available to the Secretary as follows: (1) for the operation of and enhancement to the automated data processing systems, including document imaging, medical bill review, and periodic roll management, in support of Federal Employees' Compensation Act administration, $19,971,000; (2) for conversion to a paperless office, $7,005,000; (3) for communications redesign, $750,000; (4) for information technology maintenance and support, $2,784,000; and (5) the remaining funds shall be paid into the Treasury as miscellaneous receipts: Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

Beginning in fiscal year 2001 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1) (2) (4) and (7) of the Internal Revenue Code of 1954, as amended; and interest on advances as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2001 for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5) of that Act: $30,393,000 for transfer to the Employment Standards Administration, ''Salaries and Expenses''; $21,590,000 for transfer to Departmental Management, ''Salaries and Expenses''; $318,000 for transfer to Departmental Management, ''Office of Inspector General''; and $356,000 for payments into Miscellaneous Receipts for the expenses of the Department of Treasury.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $425,983,000, including not to exceed $88,493,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute

course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: Provided, That of the amount appropriated under this heading that is in excess of the amount appropriated for such purposes for fiscal year 2000, at least $22,200,000 shall be used to carry out education, training, and consultation activities as described in subsections (c) and (d) of section 21 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(c) and (d)): Provided further, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2001, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of 10 or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $244,747,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; including up to $1,000,000 for mine rescue and recovery activities, which shall be available only to the extent that fiscal year 2001 obligations for these activities exceed $1,000,000; in addition, not to exceed $750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Administration may retain up to $1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $369,327,000, together with not to exceed $67,257,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund; and $10,000,000 which shall be available for obligation for the period July 1, 2001 through June 30, 2002, for Occupational Employment Statistics.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements, of Departmental bilateral and multilateral foreign technical assistance, of which the funds designated to carry out bilateral assistance under the international child labor initiative shall be available for obligation through September 30, 2002, $30,000,000 for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; $337,964,000: Provided, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding, 115 S. Ct. 1278 (1995), notwithstanding any provisions to the contrary contained in Rule 15 of the Federal Rules of Appellate Procedure: Provided further, That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: Provided further, That any such decision pending a review by the Benefits Review Board for more than 1 year shall be considered affirmed by the Benefits Review Board on the 1-year anniversary of the filing of the appeal, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: Provided further, That these provisions shall not be applicable to the review or appeal of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.): Provided further, That beginning in fiscal year 2001, there is established in the Department of Labor an office of disability employment policy which shall, under the overall direction of the Secretary, provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities. Such office shall be headed by an assistant secretary: Provided further, That of amounts provided under this head, not more than $23,002,000 is for this purpose.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed $186,913,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4110A, 4212, 4214, and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 2001. To carry out the Stewart B. McKinney Homeless Assistance Act and section 168 of the Workforce Investment Act of 1998, $19,800,000, of which $7,300,000 shall be available for obligation for the period July 1, 2001, through June 30, 2002.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $50,015,000, together with not to exceed $4,770,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 103. EXTENDED DEADLINE FOR EXPENDITURE. Section 403(a)(5)(C)(viii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(viii)) (as amended by section 806(b) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(4) of Public Law 106–113)) is amended by striking ''3 years'' and inserting ''5 years''.

SEC. 104. ELIMINATION OF SET-ASIDE OF PORTION OF WELFARE-TO-WORK FUNDS FOR PERFORMANCE BONUSES. (a) IN GENERAL.—Section 403(a)(5) of the Social Security Act (as amended by section 806(b) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(4) of Public Law 106–113)) is amended by striking subparagraph (E) and redesignating subparagraphs (F) through (K) as subparagraphs (E) through (J), respectively.

(b) CONFORMING AMENDMENTS.—The Social Security Act (as amended by section 806(b) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(4) of Public Law 106–113)) is further amended as follows:

(1) Section 403(a)(5)(A)(i) (42 U.S.C. 603(a)(5)(A)(i)) is amended by striking ''subparagraph (I)'' and inserting ''subparagraph (H)''.

(2) Subclause (I) of each of subparagraphs (A)(iv) and (B)(v) of section 403(a)(5) (42 U.S.C. 603(a)(5)(A)(iv)(I) and (B)(v)(I)) is amended—

(A) in item (aa)—

(i) by striking ''(I)'' and inserting ''(H)''; and

(ii) by striking ''(G), and (H)'' and inserting ''and (G)''; and

(B) in item (bb), by striking ''(F)'' and inserting ''(E)''.

(3) Section 403(a)(5)(B)(v) (42 U.S.C. 603(a)(5)(B)(v)) is amended in the matter preceding subclause (I) by striking ''(I)'' and inserting ''(H)''.

(4) Subparagraphs (E), (F), and (G)(i) of section 403(a)(5) (42 U.S.C. 603(a)(5)), as so redesignated by subsection (a) of this section, are each amended by striking ''(I)'' and inserting ''(H)''.

(5) Section 412(a)(3)(A) (42 U.S.C. 612(a)(3)(A)) is amended by striking ''403(a)(5)(I)'' and inserting ''403(a)(5)(H)''.

(c) FUNDING AMENDMENT.—Section 403(a)(5)(H)(i)(II) of such Act (42 U.S.C. 603(a)(5)(H)(i))(II) (as redesignated by subsection (a) of this section and as amended by section 806(b) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(4) of Public Law 106–113)) is further amended by striking ''$1,450,000,000'' and inserting ''$1,400,000,000''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) of this section shall take effect on October 1, 2000.

SEC. 105. None of the funds made available in this Act may be used by the Occupational Safety and Health Administration to promulgate, issue, implement, administer, or enforce any proposed, temporary, or final standard on ergonomic protection.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and section 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, and the Native Hawaiian Health Care Act of 1988, as amended, $4,572,424,000, of which $150,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act, of which $10,000,000 shall be available for the construction and renovation of health care and other facilities, of which $25,000,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act, and of which $4,000,000 shall be provided to the Rural Health Outreach Office of the Health Resources and Services Administration for the awarding of grants to community partnerships in rural areas for the purchase of automated external defibrillators and the training of individuals in basic cardiac life support: Provided, That the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals: Provided further, That of the funds made available under this heading, $250,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: Provided further, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: Provided further, That fees collected for the full disclosure of information under the ''Health Care Fraud and Abuse Data Collection Program'', authorized by section 221 of the Health Insurance Portability and Accountability Act of 1996, shall be sufficient to recover the full costs of operating the Program, and shall remain available to carry out that Act until expended: Provided further, That no more than $5,000,000 is available for carrying out the provisions of Public Law 104–73: Provided further, That of the funds made available under this heading, $253,932,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: Provided further, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: Provided further, That $538,000,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act.

RICKY RAY HEMOPHILIA RELIEF FUND PROGRAM

For payment to the Ricky Ray Hemophilia Relief Fund, as provided by Public Law 105–369, $85,000,000, of which $10,000,000 shall be for program management.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, $3,679,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: Provided, That for necessary administrative expenses, not to exceed $2,992,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $3,204,496,000, of which $20,000,000 shall be made available to carry out children's asthma programs and $4,000,000 of such $20,000,000 shall be utilized to carry out improved asthma surveillance and tracking systems and the remainder shall be used to carry out diverse community-based childhood asthma programs including both school- and community-based grant programs, except that not to exceed 5 percent of such funds may be used by the Centers for Disease Control and Prevention for administrative costs or reprogramming, and of which $175,000,000 shall remain available until expended for the facilities master plan for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account, and of which $25,000,000 shall be made available through such Centers for the establishment of partnerships between the Federal Government and academic institutions and State and local public health departments to carry out pilot programs for antimicrobial resistance detection, surveillance, education and prevention and to conduct research on resistance mechanisms and new or more effective antimicrobial compounds, and of which $10,000,000 shall remain available until expended to carry out the Fetal Alcohol Syndrome prevention and services program: Provided, That in addition to amounts provided herein, up to $91,129,000 shall be available from amounts available under section 241 of the Public Health Service Act: Provided further, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used to advocate or promote gun control: Provided further, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: Provided further, That the Congress is to be notified promptly of any such transfer: Provided further, That not to exceed $10,000,000 may be available for making grants under section 1509 of the Public Health Service Act to not more than 15 States: Provided further, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18: Provided further, That in addition to amounts made available under this heading for the National Program of Cancer Registries, an additional $15,000,000 shall be made available for such Program and special emphasis in carrying out such Program shall be given to States with the highest number of the leading causes of cancer mortality: Provided further, That amounts made available under this Act for the administrative and related expenses of the Centers for Disease Control and Prevention shall be reduced by $15,000,000: Provided further, That the funds made available under this heading for section 317A of the Public Health Service Act may be made available for programs operated in accordance with a strategy (developed and implemented by the Director for the Centers for Disease Control and Prevention) to identify and target resources for childhood lead poisoning prevention to high-risk populations, including ensuring that any individual or entity that receives a grant under that section to carry out activities relating to childhood lead poisoning prevention may use a portion of the grant funds awarded for the purpose of funding screening assessments and referrals at sites of operation of the Early Head Start programs under the Head Start Act.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $3,804,084,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $2,328,102,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $309,923,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $1,318,106,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $1,189,425,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $2,066,526,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $1,554,176,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $986,069,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $516,605,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $508,263,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $794,625,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $401,161,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $303,541,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $106,848,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $336,848,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $790,038,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $1,117,928,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $385,888,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $775,212,000: Provided, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: Provided further, That $75,000,000 shall be for extramural facilities construction grants.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, $100,089,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $61,260,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $256,953,000, of which $4,000,000 shall be available until expended for improvement of information systems: Provided, That in fiscal year 2001, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $352,165,000, of which $48,271,000 shall be for the Office of AIDS Research: Provided, That funding shall be available for the purchase of not to exceed 20 passenger motor vehicles for replacement only: Provided further, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: Provided further, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: Provided further, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: Provided further, That all funds credited to the National Institutes of Health Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: Provided further, That up to $500,000 shall be available to carry out section 499 of the Public Health Service Act: Provided further, That, notwithstanding section 499(k)(10) of the Public Health Service Act, funds from the Foundation for the National Institutes of Health may be transferred to the National Institutes of Health.

BUILDINGS AND FACILITIES

For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $148,900,000, to remain available until expended, of which $47,300,000 shall be for the neuroscience research center: Provided, That notwithstanding any other provision of law, a single contract or related contracts for the development and construction of the first phase of the National Neuroscience Research Center may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, $2,730,757,000, of which $15,000,000 shall remain available until expended to carry out the Fetal Alcohol Syndrome prevention and services program, of which $10,000,000 shall be used to provide grants to local non-profit private and public entities to enable such entities to develop and expand activities to provide substance abuse services to homeless individuals: Provided, That in addition to amounts provided herein, $12,000,000 shall be available from amounts available under section 241 of the Public Health Services Act, to carry out the National Household Survey on Drug Abuse: Provided further, That within the amounts provided herein, $3,000,000 shall be available for the Center for Mental Health Services to support through grants a certification program to improve and evaluate the effectiveness and responsiveness of suicide hotlines and crisis centers in the United States and to help support and evaluate a national hotline and crisis center network.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: Provided, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $269,943,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $93,586,251,000, to remain available until expended.

For making, after May 31, 2001, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2001 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2002, $36,207,551,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $70,381,600,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed $2,018,500,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, and together with administrative fees collected relative to Medicare overpayment recovery activities, which shall remain available until expended: Provided, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: Provided further, That $18,000,000 appropriated under this heading for the managed care system redesign shall remain available until expended: Provided further, That $3,000,000 of the amount available for research, demonstration, and evaluation activities shall be available to continue carrying out demonstration projects on Medicaid coverage of community-based attendant care services for people with disabilities which ensures maximum control by the consumer to select and manage their attendant care services: Provided further, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2001 from Medicare+Choice organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of

that Act pursuant to section 1876(k)(4)(D) of that Act: Provided further, That administrative fees collected relative to Medicare overpayment recovery activities shall be transferred to the Health Care Fraud and Abuse Control (HCFAC) account, to be used for Medicare Integrity Program (MIP) activities in addition to the amounts already specified, and shall remain available until expended.

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Reconciliation Act of 1981, $300,000,000: Provided, That these funds are hereby designated by the Congress to be emergency requirements pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to the Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in such Act.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $418,321,000, to remain available through September 30, 2003.

For carrying out section 5 of the Torture Victims Relief Act of 1998 (Public Law 105–320), $7,265,000.

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), $2,473,880,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2002, $1,000,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance to Needy Families (TANF) with respect to such State, such sums as may be necessary: Provided, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last 3 months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), in addition to amounts already appropriated for fiscal year 2001, $817,328,000: Provided, That of the funds appropriated for fiscal year 2001, $19,120,000 shall be available for child care resource and referral and school-aged child care activities: Provided further, That of the funds appropriated for fiscal year 2001, in addition to the amounts required to be reserved by the States under section 658G, $222,672,000 shall be reserved by the States for activities authorized under section 658G, of which $100,000,000 shall be for activities that improve the quality of infant and toddler child care.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $600,000,000: Provided, That notwithstanding section 2003(c) of such Act, as amended, the amount specified for allocation under such section for fiscal year 2001 shall be $600,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(INCLUDING RESCISSIONS)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105–89), the Abandoned Infants Assistance Act of 1988, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act; for making payments under the Community Services Block Grant Act, section 473A of the Social Security Act, and title IV of Public Law 105–285; and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, section 5 of the Torture Victims Relief Act of 1998 (Public Law 105–320), sections 40155, 40211, and 40241 of Public Law 103–322 and section 126 and titles IV and V of Public Law 100–485, $7,895,723,000, of which $5,000,000 shall be made available to provide grants for early childhood learning for young children, of which $55,928,000, to remain available until September 30, 2002, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670–679); of which $134,074,000, to remain available until expended, shall be for activities authorized by sections 40155, 40211, and 40241 of Public Law 103–322; of which $606,676,000 shall be for making payments under the Community Services Block Grant Act; and of which $6,267,000,000 shall be for making payments under the Head Start Act, of which $1,400,000,000 shall become available October 1, 2001 and remain available through September 30, 2002: Provided, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: Provided further, That the Secretary shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act, as amended, to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: Provided further, That amounts made available under this Act for the administrative and related expenses of the Department of Health and Human Services, the Department of Labor, and the Department of Education shall be further reduced on a pro rata basis by $14,137,000.

Funds appropriated for fiscal year 2000 under section 429A(e), part B of title IV of the Social Security Act shall be reduced by $6,000,000.

Funds appropriated for fiscal year 2000 under section 413(h)(1) of the Social Security Act shall be reduced by $15,000,000.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 430 of the Social Security Act, $305,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, $4,868,100,000.

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, for the first quarter of fiscal year 2002, $1,735,900,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, $954,619,000, of which $5,000,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions: Provided, That notwithstanding section 308(b)(1) of the Older Americans Act of 1965, as amended, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995: Provided further, That in considering grant applications for nutrition services for elder Indian recipients, the Assistant Secretary shall provide maximum flexibility to applicants who seek to take into account subsistence, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the American Indian, Alaska and Hawaiian Native communities to be served.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, and the United States-Mexico Border Health Commission Act, $206,766,000, together with $5,851,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: Provided further, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, $10,569,000 shall be for activities specified under section 2003(b)(2), of which $9,131,000 shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $33,849,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $20,742,000, together with not to exceed $3,314,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: Provided, That an additional $2,500,000 shall be made available for the Office for Civil Rights: Provided further, That amounts made available under this title for the administrative and related expenses of the Department of Health and Human Services shall be reduced by $2,500,000''.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $16,738,000.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of

the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For public health and social services, $264,600,000.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level II.

SEC. 205. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary shall determine, but not more than 1.6 percent, of any amounts appropriated for programs authorized under the PHS Act shall be made available for the evaluation (directly or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 206. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 207. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: Provided, That the Congress is promptly notified of the transfer.

SEC. 208. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the ''Office of AIDS Research'' account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 209. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 210. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare+Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare+Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 211. (a) MENTAL HEALTH.—Section 1918(b) of the Public Health Service Act (42 U.S.C. 300x–7(b)) is amended to read as follows:

''(b) MINIMUM ALLOTMENTS FOR STATES.—Each State's allotment for fiscal year 2001 for programs under this subpart shall not be less than such State's allotment for such programs for fiscal year 2000.''.

(b) SUBSTANCE ABUSE.—Section 1933(b) of the Public Health Service Act (42 U.S.C. 300x–33(b)) is amended to read as follows:

''(b) MINIMUM ALLOTMENTS FOR STATES.—Each State's allotment for fiscal year 2001 for programs under this subpart shall not be less than such State's allotment for such programs for fiscal year 2000.''.

SEC. 212. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 213. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking ''1997, 1998, 1999, and 2000'' and inserting ''1997, 1998, 1999, 2000 and 2001''; and

(B) in subsection (e), by striking ''October 1, 2000'' each place it appears and inserting ''October 1, 2001''; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking ''September 30, 2000'' and inserting ''September 30, 2001''.

SEC. 214. None of the funds provided in this Act or in any other Act making appropriations for fiscal year 2001 may be used to administer or implement in Arizona or in the Kansas City, Missouri or in the Kansas City, Kansas area the Medicare Competitive Pricing Demonstration Project (operated by the Secretary of Health and Human Services).

SEC. 215. WITHHOLDING OF SUBSTANCE ABUSE FUNDS. (a) IN GENERAL.—Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) if such State certifies to the Secretary of Health and Human Services by March 1, 2001 that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) AMOUNT OF STATE FUNDS.—The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) ADDITIONAL STATE FUNDS.—The State is to maintain State expenditures in fiscal year 2001 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2000, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2000 State expenditures and all fiscal year 2001 obligations for tobacco prevention and compliance activities by program activity by July 31, 2001.

(d) ENFORCEMENT OF STATE OBLIGATIONS.—The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2001.

(e) TERRITORIES.—None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than $1,000,000.

SEC. 216. Section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii)—

(i) by striking ''1999, 2000, and 2001'' and inserting ''1999 and 2000''; and

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

(C) by adding at the end the following new clause:

''(iii) for fiscal year 2001, a grant in an amount equal to the amount of the grant to the State under clause (i) for fiscal year 1998.'' and

(2) in subparagraph (G), by inserting at the end, ''Upon enactment, the provisions of this Act that would have been estimated by the Director of the Office of Management and Budget as changing direct spending and receipts for fiscal year 2001 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), to the extent such changes would have been estimated to result in savings in fiscal year 2001 of $240,000,000 in budget authority and $122,000,000 in outlays, shall be treated as if enacted in an appropriations act pursuant to Rule 3 of the Budget Scorekeeping Guidelines set forth in the Joint Explanatory Statement of the Committee of Conference accompanying Conference Report No. 105–217, thereby changing discretionary spending under section 251 of that Act.''.

SEC. 217. (a) Notwithstanding Section 2104(f) of the Social Security Act (the Act), the Secretary of Health and Human Services shall reduce the amounts allotted to a State under subsection (b) of the Act for fiscal year 1998 by the applicable amount with respect to the State; and

(b) Notwithstanding Section 2104(a) of the Act, the Secretary shall increase the amount otherwise payable to each State under such subsection for fiscal year 2003 by the amount of the reduction made under paragraph (a) of this section. Funds made available under this subsection shall remain available through September 30, 2004.

(c) APPLICABLE AMOUNT DEFINED.—In subsection (a), with respect to a State, the term ''applicable amount'' means, with respect to a State, an amount bearing the same proportion to $1,900,000,000 as the unexpended balance of its fiscal year 1998 allotment as of September 30, 2000, which would otherwise be redistributed to States in fiscal year 2001 under Section 2104(f) of the Act, bears to the sum of the unexpended balances of fiscal year 1998 allotments for all States as of September 30, 2000: Provided, That, the applicable amount for a State shall not exceed the unexpended balance of its fiscal year 1998 allotment as of September 30, 2000.

SEC. 218. SENSE OF THE SENATE ON PREVENTION OF NEEDLESTICK INJURIES. (a) FINDINGS.—The Senate finds that—

(1) the Centers for Disease Control and Prevention reports that American health care workers report 600,000 to 800,000 needlestick and sharps injuries each year;

(2) the occurrence of needlestick injuries is believed to be widely under-reported;

(3) needlestick and sharps injuries result in at least 1,000 new cases of health care workers with HIV, hepatitis C or hepatitis B every year;

(4) more than 80 percent of needlestick injuries can be prevented through the use of safer devices; and

(5) the Occupational Safety and Health Administration's November 1999 Compliance Directive has helped clarify the duty of employers to use safer needle devices to protect their workers. However, millions of State and local government employees are not covered by OSHA's bloodborne pathogen standards and are not protected against the hazards of needlesticks.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should pass legislation that would eliminate or minimize the significant risk of needlestick injury to health care workers.

SEC. 219. (a) IN GENERAL.—There is appropriated $10,000,000 that may be used by the Director of the National Institute for Occupational Safety and Health to—

(1) establish and maintain a national database on existing needleless systems and sharps with engineered sharps injury protections;

(2) develop a set of evaluation criteria for use by employers, employees, and other persons when they are evaluating and selecting needleless systems and sharps with engineered sharps injury protections;

(3) develop a model training curriculum to train employers, employees, and other persons on the process of evaluating needleless systems and sharps with engineered sharps injury protections and to the extent feasible to provide technical assistance to persons who request such assistance; and

(4) establish a national system to collect comprehensive data on needlestick injuries to health care workers, including data on mechanisms to analyze and evaluate prevention interventions in relation to needlestick injury occurrence.

(b) DEFINITIONS.—In this section:

(1) EMPLOYER.—The term ''employer'' means each employer having an employee with occupational exposure to human blood or other material potentially containing bloodborne pathogens.

(2) ENGINEERED SHARPS INJURY PROTECTIONS.—The term ''engineered sharps injury protections'' means—

(A) a physical attribute built into a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, that effectively reduces the risk of an exposure incident by a mechanism such as barrier creation, blunting, encapsulation, withdrawal, retraction, destruction, or other effective mechanisms; or

(B) a physical attribute built into any other type of needle device, or into a nonneedle sharp, which effectively reduces the risk of an exposure incident.

(3) NEEDLELESS SYSTEM.—The term ''needleless system'' means a device that does not use needles for—

(A) the withdrawal of body fluids after initial venous or arterial access is established;

(B) the administration of medication or fluids; and

(C) any other procedure involving the potential for an exposure incident.

(4) SHARP.—The term ''sharp'' means any object used or encountered in a health care setting that can be reasonably anticipated to penetrate the skin or any other part of the body, and to result in an exposure incident, including, but not limited to, needle devices, scalpels, lancets, broken glass, broken capillary tubes, exposed ends of dental wires and dental knives, drills, and burs.

(5) SHARPS INJURY.—The term ''sharps injury'' means any injury caused by a sharp, including cuts, abrasions, or needlesticks.

(c) OFFSET.—Amounts made available under this Act for the travel, consulting, and printing services for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on a pro rata basis by $10,000,000.

SEC. 220. None of the funds made available under this Act may be made available to any entity under the Public Health Service Act after September 1, 2001, unless the Director of the National Institutes of Health has provided to the Chairman and Ranking Member of the Senate Committees on Appropriations, and Health, Education, Labor, and Pensions a proposal to require a reasonable rate of return on both intramural and extramural research by March 31, 2001.

SEC. 221. (a) STUDY.—The Secretary of Health and Human Services shall conduct a study to examine—

(1) the experiences of hospitals in the United States in obtaining reimbursement from foreign health insurance companies whose enrollees receive medical treatment in the United States;

(2) the identity of the foreign health insurance companies that do not cooperate with or reimburse (in whole or in part) United States health care providers for medical services rendered in the United States to enrollees who are foreign nationals;

(3) the amount of unreimbursed services that hospitals in the United States provide to foreign nationals described in paragraph (2); and

(4) solutions to the problems identified in the study.

(b) REPORT.—Not later than March 31, 2001, the Secretary of Health and Human Services shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Appropriations, a report concerning the results of the study conducted under subsection (a), including the recommendations described in paragraph (4) of such subsection.

SEC. 222. NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT. Section 448 of the Public Health Service Act (42 U.S.C. 285g) is amended by inserting ''gynecologic health,'' after ''with respect to''.

SEC. 223. In addition to amounts otherwise appropriated under this title for the Centers for Disease Control and Prevention, $37,500,000, to be utilized to provide grants to States and political subdivisions of States under section 317 of the Public Health Service Act to enable such States and political subdivisions to carry out immunization infrastructure and operations activities: Provided, That of the total amount made available in this Act for infrastructure funding for the Centers for Disease Control and Prevention, not less than 10 percent shall be used for immunization projects in areas with low or declining immunization rates or areas that are particularly susceptible to disease outbreaks, and not more than 14 percent shall be used to carry out the incentive bonus program: Provided further, That amounts made available under this Act for the administrative and related expenses of the Department of Health and Human Services, the Department of Labor, and the Department of Education shall be further reduced on a pro rata basis by $37,500,000.

SEC. 224. None of the funds appropriated under this Act shall be expended by the National Institutes of Health on a contract for the care of the 288 chimpanzees acquired by the National Institutes of Health from the Coulston Foundation, unless the contractor is accredited by the Association for the Assessment and Accreditation of Laboratory Animal Care International or has a Public Health Services assurance, and has not been charged multiple times with egregious violations of the Animal Welfare Act.

SEC. 225. (a) In addition to amounts made available under the heading ''Health Resources and Services Administration-Health Resources and Services'' for poison prevention and poison control center activities, there shall be available an additional $20,000,000 to provide assistance for such activities and to stabilize the funding of regional poison control centers as provided for pursuant to the Poison Control Center Enhancement and Awareness Act (Public Law 106–174).

(b) Amounts made available under this Act for the administrative and related expenses of the Department of Health and Human Services, the Department of Labor, and the Department of Education shall be further reduced on a pro rata basis by $20,000,000.

SEC. 226. SENSE OF THE SENATE REGARDING THE DELIVERY OF EMERGENCY MEDICAL SERVICES. (a) FINDINGS.—The Senate finds the following:

(1) Several States have developed and implemented a unique 2-tiered emergency medical services system that effectively provides services to the residents of those States.

(2) These 2-tiered systems include volunteer and for-profit emergency medical technicians who provide basic life support and hospital-based paramedics who provide advanced life support.

(3) These 2-tiered systems have provided universal access for residents of those States to affordable emergency services, while simultaneously ensuring that those persons in need of the most advanced care receive such care from the proper authorities.

(4) One State's 2-tiered system currently has an estimated 20,000 emergency medical technicians providing ambulance transportation for basic life support and advanced life support emergencies, over 80 percent of which are handled by volunteers who are not reimbursed under the medicare program under title XVIII of the Social Security Act.

(5) The hospital-based paramedics, also known as mobile intensive care units, are reimbursed under the medicare program when they respond to advanced life support emergencies.

(6) These 2-tiered State health systems save the lives of thousands of residents of those States each year, while saving the medicare program, in some instances, as much as $39,000,000 in reimbursement fees.

(7) When Congress requested that the Health Care Financing Administration enact changes to the emergency medical services fee schedule as a result of the Balanced Budget Act of 1997, including a general overhaul of reimbursement rates and administrative costs, it was in the spirit of streamlining the agency, controlling skyrocketing health care costs, and lengthening the solvency of the medicare program.

(8) The Health Care Financing Administration is considering implementing new emergency medical services reimbursement guidelines that may destabilize the 2-tier system that has developed in these States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Health Care Financing Administration should—

(1) consider the unique nature of 2-tiered emergency medical services delivery systems when implementing new reimbursement guidelines for paramedics and hospitals under the medicare program under title XVIII of the Social Security Act; and

(2) promote innovative emergency medical service systems enacted by States that reduce reimbursement costs to the medicare program while ensuring that all residents receive quick and appropriate emergency care when needed.

SEC. 227. SENSE OF THE SENATE REGARDING IMPACTS OF THE BALANCED BUDGET ACT OF 1997. (a) FINDINGS.—The Senate makes the following findings:

(1) Since its passage in 1997, the Balanced Budget Act of 1997 has drastically cut payments under the medicare program under title XVIII of the Social Security Act in the areas of hospital, home health, and skilled nursing care, among others. While Congress intended to cut approximately $100,000,000,000 from the medicare program over 5 years, recent estimates put the actual cut at over $200,000,000,000.

(2) A recent study on home health care found that nearly 70 percent of hospital discharge

planners surveyed reported a greater difficulty obtaining home health services for medicare beneficiaries as a result of the Balanced Budget Act of 1997.

(3) According to the Medicare Payment Advisory Commission, rural hospitals were disproportionately affected by the Balanced Budget Act of 1997, dropping the inpatient margins of such hospitals over 4 percentage points in 1998.

(b) SENSE OF SENATE.—It is the sense of the Senate that Congress and the President should act expeditiously to alleviate the adverse impacts of the Balanced Budget Act of 1997 on beneficiaries under the medicare program under title XVIII of the Social Security Act and health care providers participating in such program.

TITLE III—DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

EDUCATION REFORM

For carrying out activities authorized by title IV of the Goals 2000: Educate America Act as in effect prior to September 30, 2000, and sections 3122, 3132, 3136, and 3141, parts B, C, and D of title III, and part I of title X of the Elementary and Secondary Education Act of 1965, $1,434,500,000, of which $40,000,000 shall be for the Goals 2000: Educate America Act, and of which $192,000,000 shall be for section 3122: Provided, That up to one-half of 1 percent of the amount available under section 3132 shall be set aside for the outlying areas, to be distributed on the basis of their relative need as determined by the Secretary in accordance with the purposes of the program: Provided further, That if any State educational agency does not apply for a grant under section 3132, that State's allotment under section 3131 shall be reserved by the Secretary for grants to local educational agencies in that State that apply directly to the Secretary according to the terms and conditions published by the Secretary in the Federal Register: Provided further, That, notwithstanding part I of title X of the Elementary and Secondary Education Act of 1965 or any other provision of law, a community-based organization that has experience in providing before- and after-school services shall be eligible to receive a grant under that part, on the same basis as a school or consortium described in section 10904 of that Act, and the Secretary shall give priority to any application for such a grant that is submitted jointly by such a community-based organization and such a school or consortium.

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act of 1965, $8,986,800,000, of which $2,729,958,000 shall become available on July 1, 2001, and shall remain available through September 30, 2002, and of which $6,223,342,000 shall become available on October 1, 2001 and shall remain available through September 30, 2002, for academic year 2000–2001: Provided, That $7,113,403,000 shall be available for basic grants under section 1124: Provided further, That up to $3,500,000 of these funds shall be available to the Secretary on October 1, 2000, to obtain updated local educational agency level census poverty data from the Bureau of the Census: Provided further, That $1,222,397,000 shall be available for concentration grants under section 1124A: Provided further, That grant awards under sections 1124 and 1124A of title I of the Elementary and Secondary Education Act of 1965 shall be made to each State and local educational agency at no less than 100 percent of the amount such State or local educational agency received under this authority for fiscal year 2000: Provided further, That notwithstanding any other provision of law, grant awards under section 1124A of title I of the Elementary and Secondary Education Act of 1965 shall be made to those local educational agencies that received a Concentration Grant under the Department of Education Appropriations Act, 2000, but are not eligible to receive such a grant for fiscal year 2001: Provided further, That each such local educational agency shall receive an amount equal to the Concentration Grant the agency received in fiscal year 2000, ratably reduced, if necessary, to ensure that these local educational agencies receive no greater share of their hold-harmless amounts than other local educational agencies: Provided further, That notwithstanding any other provision of law, in calculating the amount of Federal assistance awarded to a State or local educational agency under any program under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) on the basis of a formula described in section 1124 or 1124A of such Act (20 U.S.C. 6333, 6334), any funds appropriated for the program in excess of the amount appropriated for the program for fiscal year 2000 shall be awarded according to the formula, except that, for such purposes, the formula shall be applied only to States or local educational agencies that experience a reduction under the program for fiscal year 2001 as a result of the application of the 100 percent hold harmless provisions under the heading ''Education for the Disadvantaged'': Provided further, That the Secretary shall not take into account the hold harmless provisions in this section in determining State allocations under any other program administered by the Secretary in any fiscal year.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $1,030,000,000, of which $818,000,000 shall be for basic support payments under section 8003(b), $50,000,000 shall be for payments for children with disabilities under section 8003(d), $82,000,000, to remain available until expended, shall be for payments under section 8003(f), $35,000,000 shall be for construction under section 8007, $47,000,000 shall be for Federal property payments under section 8002 and $8,000,000 to remain available until expended shall be for facilities maintenance under section 8008: Provided, That amounts made available under this Act for the administrative and related expenses of the Department of Health and Human Services, the Department of Labor, and the Department of Education shall be further reduced on a pro rata basis by $10,000,000.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV, V–A and B, VI, IX, X, and XIII of the Elementary and Secondary Education Act of 1965 (''ESEA''); the Stewart B. McKinney Homeless Assistance Act; and the Civil Rights Act of 1964 and part B of title VIII of the Higher Education Act of 1965; $4,672,534,000, of which $1,100,200,000 shall become available on July 1, 2001, and remain available through September 30, 2002, and of which $2,915,000,000 shall become available on October 1, 2001 and shall remain available through September 30, 2002 for academic year 2001–2002: Provided, That of the amount appropriated, $435,000,000 shall be for Eisenhower professional development State grants under title II–B and $3,100,000,000 shall be for title VI and up to $750,000 shall be for an evaluation of comprehensive regional assistance centers under title XIII of ESEA: Provided further, That of the amount made available for Title VI, $2,700,000,000 shall be available, notwithstanding any other provision of law, for purposes consistent with title VI to be determined by the local education agency as part of a local strategy for improving academic achievement: Provided further, That these funds may also be used to address the shortage of highly qualified teachers to reduce class size, particularly in early grades, using highly qualified teachers to improve educational achievement for regular and special needs children; to support efforts to recruit, train and retrain highly qualified teachers; to carry out part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or for school construction and renovation of facilities, at the sole discretion of the local educational agency: Provided further, That funds made available under this heading to carry out section 6301(b) of the Elementary and Secondary Education Act of 1965 shall be available for education reform projects that provide same gender schools and classrooms, consistent with applicable law: Provided further, That of the amount made available under this heading for activities carried out through the Fund for the Improvement of Education under part A of title X, $10,000,000 shall be made available to enable the Secretary of Education to award grants to develop and implement school dropout prevention programs.

READING EXCELLENCE

For necessary expenses to carry out the Reading Excellence Act, $91,000,000, which shall become available on July 1, 2001 and shall remain available through September 30, 2002 and $195,000,000 which shall become available on October 1, 2001 and remain available through September 30, 2002.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title IX, part A of the Elementary and Secondary Education Act of 1965, as amended, $115,500,000.

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual, foreign language and immigrant education activities authorized by parts A and C and section 7203 of title VII of the Elementary and Secondary Education Act of 1965, without regard to section 7103(b), $443,000,000: Provided, That State educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, $7,352,341,000, of which $2,464,452,000 shall become available for obligation on July 1, 2001, and shall remain available through September 30, 2002, and of which $4,624,000,000 shall become available on October 1, 2001 and shall remain available through September 30, 2002, for academic year 2001–2002: Provided, That $1,500,000 shall be for the recipient of funds provided by Public Law 105–78 under section 687(b)(2)(G) of the Act to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: Provided further, That the amount for section 611(c) of the Act shall be equal to the amount available for that section under Public Law 106–113, increased by the rate of inflation as specified in section 611(f)(1)(B)(ii) of the Act.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998, and the Helen Keller National Center Act, $2,799,519,000: Provided, That notwithstanding section 105(b)(1) of the Assistive Technology Act of 1998 (''the AT Act''), each State shall be provided $50,000 for activities under section 102 of the AT Act: Provided further, That notwithstanding section 105(b)(1) and section 101(f)(2) and (3) of the Assistive Technology Act of 1998, each State shall be provided a minimum of $500,000 for activities under section 101: Provided further, That $7,000,000 shall be used to support grants for up to three years to states under title III of the AT Act, of which the Federal share shall not exceed 75 percent in the first year, 50 percent in the second year, and 25 percent in the third year, and that the requirements in section 301(c)(2) and section 302 of that Act shall not apply to such grants.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $12,500,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $54,366,000, of which $7,176,000 shall be for construction and shall remain available until expended: Provided, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $87,650,000: Provided, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

OFFICE OF VOCATIONAL AND ADULT EDUCATION

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Technical Education Act, the Adult Education and Family Literacy Act, and title VIII–D of the Higher Education Act of 1965, as amended, and Public Law 102–73, $1,726,600,000, of which $1,000,000 shall remain available until expended, and of which $929,000,000 shall become available on July 1, 2001 and shall remain available through September 30, 2002 and of which $791,000,000 shall become available on October 1, 2001 and shall remain available through September 30, 2002: Provided, That of the amounts made available for the Carl D. Perkins Vocational and Technical Education Act, $5,600,000 shall be for tribally controlled postsecondary vocational and technical institutions under section 117: Provided further, That $9,000,000 shall be for carrying out section 118 of such Act: Provided further, That up to 15 percent of the funds provided may be used by the national entity designated under section 118(a) to cover the cost of authorized activities and operations, including Federal salaries and expenses: Provided further, That the national entity is authorized, effective upon enactment, to charge fees for publications, training, and technical assistance developed by that national entity: Provided further, That revenues received from publications and delivery of technical assistance and training, notwithstanding 31 U.S.C. 3302, may be credited to the national entity's account and shall be available to the national entity, without fiscal year limitation, so long as such revenues are used for authorized activities and operations of the national entity: Provided further, That of the funds made available to carry out section 204 of the Perkins Act, all funds that a State receives in excess of its prior-year allocation shall be competitively awarded: Provided further, That in making these awards, each State shall give priority to consortia whose applications most effectively integrate all components under section 204(c): Provided further, That of the amounts made available for the Carl D. Perkins Vocational and Technical Education Act, $5,000,000 shall be for demonstration activities authorized by section 207: Provided further, That of the amounts made available for the Adult Education and Family Literacy Act, $14,000,000 shall be for national leadership activities under section 243 and $6,500,000 shall be for the National Institute for Literacy under section 242: Provided further, That $22,000,000 shall be for Youth Offender Grants, of which $5,000,000 shall be used in accordance with section 601 of Public Law 102–73 as that section was in effect prior to the enactment of Public Law 105–220: Provided further, That of the amounts made available for title I of the Perkins Act, the Secretary may reserve up to 0.54 percent for incentive grants under section 503 of the Workforce Investment Act, without regard to section 111(a)(1)(C) of the Perkins Act: Provided further, That of the amounts made available for the Adult Education and Family Literacy Act, the Secretary may reserve up to 0.54 percent for incentive grants under section 503 of the Workforce Investment Act, without regard to section 211(a)(3) of the Adult Education and Family Literacy Act.

OFFICE OF STUDENT FINANCIAL ASSISTANCE

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3 and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, $10,624,000,000, which shall remain available through September 30, 2002.

The maximum Pell Grant for which a student shall be eligible during award year 2001–2002 shall be $3,650: Provided, That notwithstanding section 401(g) of the Act, if the Secretary determines, prior to publication of the payment schedule for such award year, that the amount included within this appropriation for Pell Grant awards in such award year, and any funds available from the fiscal year 2000 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act of 1965, as amended, $48,000,000.

OFFICE OF POSTSECONDARY EDUCATION

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, section 121 and titles II, III, IV, V, VI, VII, and VIII of the Higher Education Act of 1965, as amended, and the Mutual Educational and Cultural Exchange Act of 1961; $1,694,520,000, of which $10,000,000 for interest subsidies authorized by section 121 of the Higher Education Act of 1965, shall remain available until expended: Provided, That $11,000,000, to remain available through September 30, 2002, shall be available to fund fellowships under part A, subpart 1 of title VII of said Act, of which up to $1,000,000 shall be available to fund fellowships for academic year 2001–2002, and the remainder shall be available to fund fellowships for academic year 2002–2003: Provided further, That $3,000,000 is for data collection and evaluation activities for programs under the Higher Education Act of 1965, including such activities needed to comply with the Government Performance and Results Act of 1993: Provided further, That section 404F(a) of the Higher Education Amendments of 1998 is amended by striking out ''using funds appropriated under section 404H that do not exceed $200,000'' and inserting in lieu thereof ''using not more than 0.2 percent of the funds appropriated under section 404H''.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $224,000,000, of which not less than $3,530,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses authorized under section 121 of the Higher Education Act of 1965, $737,000 to carry out activities related to existing facility loans entered into under the Higher Education Act of 1965.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 344 of title III, part D of the Higher Education Act of 1965 shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act of 1965, as amended, $208,000.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994, including part E; the National Education Statistics Act of 1994, including sections 411 and 412; section 2102 of title II, and parts A, B, and K and section 10102, section 10105, and 10601 of title X, and part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of Public Law 103–227, $506,519,000, of which $250,000 shall be for the Web-Based Education Commission: Provided, That of the funds appropriated under section 10601 of title X of the Elementary and Secondary Education Act of 1965, as amended, $1,500,000 shall be used to conduct a violence prevention demonstration program: Provided further, That of the funds appropriated $5,000,000 shall be made available for a high school State grant program to improve academic performance and provide technical skills training, $5,000,000 shall be made available to provide grants to enable elementary and secondary schools to provide physical education and improve physical fitness: Provided further, That $50,000,000 of the funds provided for the national education research institutes shall be allocated notwithstanding section 912(m)(1)(B–F) and subparagraphs (B) and (C) of section 931(c)(2) of Public Law 103–227 and $20,000,000 of that $50,000,000 shall be made available for the Interagency Education Research Initiative: Provided further, That the amounts made available under this Act for the administrative and related expenses of the Department of Health and Human Services, the Department of Labor, and the Department of Education shall be further reduced on a pro rata basis by $10,000,000: Provided further, That of the funds available for section 10601 of title X of the Elementary and Secondary Education Act of 1965, as amended, $150,000 shall be awarded to the Center for Educational Technologies to complete production and distribution of an effective CD–ROM product that would complement the ''We the People: The Citizen and the Constitution'' curriculum: Provided further, That, in addition to the funds for title VI of Public Law 103–227 and notwithstanding the provisions of section 601(c)(1)(C) of that Act, $1,000,000 shall be available to the Center for Civic Education to conduct a civic education program with Northern Ireland and the Republic of Ireland and, consistent with the civics and Government activities authorized in section 601(c)(3) of Public Law 103–227, to provide civic education assistance to democracies in developing countries. The term ''developing countries'' shall have the same meaning as the term ''developing country'' in the Education for the Deaf Act: Provided further, That of the amount made available under this heading for activities carried out through the Fund for the Improvement of Education under part A of title X, $50,000,000 shall be made available to enable the Secretary of Education to award grants to develop, implement, and strengthen programs to teach American history (not social studies) as a separate subject within school curricula.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, $396,671,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $73,224,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, as authorized by section 212 of the Department of Education Organization Act, $35,456,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 305. IMPACT AID. Notwithstanding any other provision of this Act—

(1) the total amount appropriated under this title to carry out title VIII of the Elementary and Secondary Education Act of 1965 shall be $1,075,000,000;

(2) the total amount appropriated under this title for basic support payments under section 8003(b) of the Elementary and Secondary Education Act of 1965 shall be $853,000,000; and

(3) amounts made available for the administrative and related expenses of the Department of Labor, Health and Human Services, and Education, shall be further reduced on a pro rata basis by $35,000,000.

SEC. 306. (a) In addition to any amounts appropriated under this title for the loan forgiveness for child care providers program under section 428K of the Higher Education Act of 1965 (20 U.S.C. 1078–11), an additional $10,000,000 is appropriated to carry out such program.

(b) Notwithstanding any other provision of this Act, amounts made available under titles I and II, and this title, for salaries and expenses at the Departments of Labor, Health and Human Services, and Education, respectively, shall be reduced on a pro rata basis by $10,000,000.

SEC. 307. TECHNOLOGY AND MEDIA SERVICES. Notwithstanding any other provision of this Act—

(1) the total amount appropriated under this title under the heading ''OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES'' under the heading ''SPECIAL EDUCATION'' to carry out the Individuals with Disabilities Education Act shall be $7,353,141,000, of which $35,323,000 shall be available for technology and media services; and

(2) the total amount appropriated under this title under the heading ''DEPARTMENTAL MANAGEMENT'' under the heading ''PROGRAM ADMINISTRATION'' shall be further reduced by $800,000.

SEC. 308. (a) In addition to any amounts appropriated under this title for the Perkin's loan cancellation program under section 465 of the Higher Education Act of 1965 (20 U.S.C. 1087ee), an additional $15,000,000 is appropriated to carry out such program.

(b) Notwithstanding any other provision of this Act, amounts made available under titles I and II, and this title, for salaries and expenses at the Departments of Labor, Health and Human Services, and Education, respectively, shall be further reduced on a pro rata basis by $15,000,000.

SEC. 309. The Comptroller General of the United States shall evaluate the extent to which funds made available under part A of title I of the Elementary and Secondary Education Act of 1965 are allocated to schools and local educational agencies with the greatest concentrations of school-age children from low-income families, the extent to which allocations of such funds adjust to shifts in concentrations of pupils from low-income families in different regions, States, and substate areas, the extent to which the allocation of such funds encourages the targeting of State funds to areas with higher concentrations of children from low-income families, the implications of current distribution methods for such funds, and formula and other policy recommendations to improve the targeting of such funds to more effectively serve low-income children in both rural and urban areas, and for preparing interim and final reports based on the results of the study, to be submitted to Congress not later than February 1, 2001, and April 1, 2001.

SEC. 310. The amount made available under this title under the heading ''OFFICE OF POSTSECONDARY EDUCATION'' under the heading ''HIGHER EDUCATION'' to carry out section 316 of the Higher Education Act of 1965 is increased by $5,000,000, which increase shall be used for construction and renovation projects under such section; and the amount made available under this title under the heading ''OFFICE OF POSTSECONDARY EDUCATION'' under the heading ''HIGHER EDUCATION'' to carry out part B of title VII of the Higher Education Act of 1965 is decreased by $5,000,000.

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $69,832,000, of which $9,832,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: Provided, That, notwithstanding any other provision of law, a single contract or related contracts for development and construction, to include construction of a long-term care facility at the United States Naval Home, may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18 and 252.232–7007, Limitation of Government Obligations. In addition, for completion of the long-term care facility at the United States Naval Home, $6,228,000 to become available on October 1, 2001, and remain available until expended.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $302,504,000: Provided, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by part E of title II of the Domestic Volunteer Service Act of 1973 shall be used to provide stipends or other monetary incentives to volunteers or volunteer leaders whose incomes exceed 125 percent of the national poverty level.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2003, $365,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: Provided further, That in addition to the amounts provided above, $20,000,000, to remain available until expended, shall be for digitalization, pending enactment of authorizing legislation.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. ch. 71), $38,200,000, including $1,500,000, to remain available through September 30, 2002, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): Provided, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: Provided further, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: Provided further, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $6,320,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF LIBRARY SERVICES: GRANTS AND ADMINISTRATION

For carrying out subtitle B of the Museum and Library Services Act, $168,000,000, to remain available until expended.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, $8,000,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended), $1,495,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $2,615,000.

NATIONAL EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, $2,350,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $216,438,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $10,400,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $8,720,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $160,000,000, which shall include amounts becoming available in fiscal year 2001 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $160,000,000: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $150,000, to remain available through September 30, 2002, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $92,500,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $5,700,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: Provided, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,400,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $365,748,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 2002, $114,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $23,053,000,000, to remain available until expended: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

From funds provided under the previous paragraph, not less than $100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, $210,000,000, to remain available until September 30, 2002, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104–121 and section 10203 of Public Law 105–33. The term ''continuing disability reviews'' means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act, as amended.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2002, $10,470,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $6,469,800,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: Provided, That not less than $1,800,000 shall be for the Social Security Advisory Board: Provided further, That unobligated balances at the end of fiscal year 2001 not needed for fiscal year 2001 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses.

From funds provided under the first paragraph, not less than $200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, $450,000,000, to remain available until September 30, 2002, for continuing disability reviews as authorized by section 103 of Public Law 104–121 and section 10203 of Public Law 105–33. The term ''continuing disability reviews'' means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act, as amended.

In addition, $91,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93–66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 2001 exceed $91,000,000, the amounts shall be available in fiscal year 2002 only to the extent provided in advance in appropriations Acts.

From funds previously appropriated for this purpose, any unobligated balances at the end of fiscal year 2000 shall be available to continue Federal-State partnerships which will evaluate means to promote Medicare buy-in programs targeted to elderly and disabled individuals under titles XVIII and XIX of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $16,944,000, together with not to exceed $52,500,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the ''Limitation on Administrative Expenses'', Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: Provided, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $12,951,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed $20,000 and $15,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for ''Salaries and expenses, Federal Mediation and Conciliation Service''; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for ''Salaries and expenses, National Mediation Board''.

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

SEC. 506. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state: (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 508. (a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for any abortion.

(b) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term ''health benefits coverage'' means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 509. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

SEC. 510. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term ''human embryo or embryos'' includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 511. (a) LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES.—None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. Except as otherwise specifically provided by law, unobligated balances remaining available at the end of fiscal year 2000 from appropriations made available for salaries and expenses for fiscal year 2000 in this Act, shall remain available through December 31, 2001, for each such account for the purposes authorized: Provided, That the House and Senate Committees on Appropriations shall be notified at least 15 days prior to the obligation of such funds.

SEC. 514. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

SEC. 515. Section 410(b) of The Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) is amended by striking ''2009'' both places it appears and inserting ''2001''.

SEC. 516. Amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on pro rata basis by $50,000,000.

SEC. 517. (a) None of the funds appropriated under this Act to carry out section 330 or title X of the Public Health Service Act (42 U.S.C. 254b, 300 et seq.), title V or XIX of the Social Security Act (42 U.S.C. 701 et seq., 1396 et seq.), or any other provision of law, shall be used for the distribution or provision of postcoital emergency contraception, or the provision of a prescription for postcoital emergency contraception, to an unemancipated minor, on the premises or in the facilities of any elementary school or secondary school.

(b) This section takes effect 1 day after the date of enactment of this Act.

(c) In this section:

(1) The terms ''elementary school'' and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) The term ''unemancipated minor'' means an unmarried individual who is 17 years of age or younger and is a dependent, as defined in section 152(a) of the Internal Revenue Code of 1986.

SEC. 518. Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

''PART G—REQUIREMENT RELATING TO THE RIGHTS OF RESIDENTS OF CERTAIN FACILITIES

''SEC. 581. REQUIREMENT RELATING TO THE RIGHTS OF RESIDENTS OF CERTAIN FACILITIES.

''(a) IN GENERAL.—A public or private general hospital, nursing facility, intermediate care facility, residential treatment center, or other health care facility, that receives support in any form from any program supported in whole or in part with funds appropriated to any Federal department or agency shall protect and promote the rights of each resident of the facility, including the right to be free from physical or mental abuse, corporal punishment, and any restraints or involuntary seclusions imposed for purposes of discipline or convenience.

''(b) REQUIREMENTS.—Restraints and seclusion may only be imposed on a resident of a facility described in subsection (a) if—

''(1) the restraints or seclusion are imposed to ensure the physical safety of the resident, a staff member, or others; and

''(2) the restraints or seclusion are imposed only upon the written order of a physician, or other licensed independent practitioner permitted by the State and the facility to order such restraint or seclusion, that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

''(c) DEFINITIONS.—In this section:

''(1) RESTRAINTS.—The term 'restraints' means—

''(A) any physical restraint that is a mechanical or personal restriction that immobilizes or reduces the ability of an individual to move his or her arms, legs, or head freely, not including devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or any other methods that involves the physical holding of a resident for the purpose of conducting routine physical examinations or tests or to protect the resident from falling out of bed or to permit the resident to participate in activities without the risk of physical harm to the resident; and

''(B) a drug or medication that is used as a restraint to control behavior or restrict the resident's freedom of movement that is not a standard treatment for the resident's medical or psychiatric condition.

''(2) SECLUSION.—The term 'seclusion' means any separation of the resident from the general population of the facility that prevents the resident from returning to such population if he or she desires.

''SEC. 582. REPORTING REQUIREMENT.

''(a) IN GENERAL.— Each facility to which the Protection and Advocacy for Mentally Ill Individuals Act of 1986 applies shall notify the appropriate agency, as determined by the Secretary, of each death that occurs at each such facility while a patient is restrained or in seclusion, of each death occurring within 24 hours after the patient has been removed from restraints and seclusion, or where it is reasonable to assume that a patient's death is a result of such seclusion or restraint. A notification under this section shall include the name of the resident and shall be provided not later than 7 days after the date of the death of the individual involved.

''(b) FACILITY.—In this section, the term 'facility' has the meaning given the term 'facilities' in section 102(3) of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10802(3)).''.

''SEC. 583. REGULATIONS AND ENFORCEMENT.

''(a) TRAINING.—Not later than 1 year after the date of enactment of this part, the Secretary, after consultation with appropriate State and local protection and advocacy organizations, physicians, facilities, and other health care professionals and patients, shall promulgate regulations that require facilities to which the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) applies, to meet the requirements of subsection (b).

''(b) REQUIREMENTS.—The regulations promulgated under subsection (a) shall require that—

''(1) facilities described in subsection (a) ensure that there is an adequate number of qualified professional and supportive staff to evaluate patients, formulate written individualized, comprehensive treatment plans, and to provide active treatment measures;

''(2) appropriate training be provided for the staff of such facilities in the use of restraints and any alternatives to the use of restraints; and

''(3) such facilities provide complete and accurate notification of deaths, as required under section 582(a).

''(c) ENFORCEMENT.—A facility to which this part applies that fails to comply with any requirement of this part, including a failure to provide appropriate training, shall not be eligible for participation in any program supported in whole or in part by funds appropriated to any Federal department or agency.''.

SEC. 519. It is the sense of the Senate that each entity carrying out an Early Head Start program under the Head Start Act should—

(1) determine whether a child eligible to participate in the Early Head Start program has received a blood lead screening test, using a test that is appropriate for age and risk factors, upon the enrollment of the child in the program; and

(2) in the case of an child who has not received such a blood lead screening test, ensure that each enrolled child receives such a test either by referral or by performing the test (under contract or otherwise).

SEC. 520. (a) Whereas sexual abuse in schools between a student and a member of the school staff or a student and another student is a cause for concern in America;

(b) Whereas relatively few studies have been conducted on sexual abuse in schools and the extent of this problem is unknown;

(c) Whereas according to the Child Abuse and Neglect Reporting Act, a school administrator is required to report any allegation of sexual abuse to the appropriate authorities;

(d) Whereas an individual who is falsely accused of sexual misconduct with a student deserves appropriate legal and professional protections;

(e) Whereas it is estimated that many cases of sexual abuse in schools are not reported;

(f) Whereas many of the accused staff quietly resign at their present school district and are then rehired at a new district which has no knowledge of their alleged abuse;

(g) Therefore, it is the Sense of the Senate that the Secretary of Education should initiate a study and make recommendations to Congress and State and local governments on the issue of sexual abuse in schools.

TITLE VI—CHILDREN'S INTERNET PROTECTION

SEC. 601. SHORT TITLE. This title may be cited as the ''Childrens' Internet Protection Act''.

SEC. 602. REQUIREMENT FOR SCHOOLS AND LIBRARIES TO IMPLEMENT FILTERING OR BLOCKING TECHNOLOGY FOR COMPUTERS WITH INTERNET ACCESS AS CONDITION OF UNIVERSAL SERVICE DISCOUNTS. (a) SCHOOLS.—Section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (7); and

(2) by inserting after paragraph (4) the following new paragraph (5):

''(5) REQUIREMENTS FOR CERTAIN SCHOOLS WITH COMPUTERS HAVING INTERNET ACCESS.—

''(A) INTERNET FILTERING.—

''(i) IN GENERAL.—Except as provided in clause (ii), an elementary or secondary school having computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the school, school board, or other authority with responsibility for administration of the school—

''(I) submits to the Commission a certification described in subparagraph (B); and

''(II) ensures the use of such computers in accordance with the certification.

''(ii) APPLICABILITY.—The prohibition in paragraph (1) shall not apply with respect to a school that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

''(B) CERTIFICATION.—A certification under this subparagraph is a certification that the school, school board, or other authority with responsibility for administration of the school—

''(i) has selected a technology for its computers with Internet access in order to filter or block Internet access through such computers to—

''(I) material that is obscene; and

''(II) child pornography; and

''(ii) is enforcing a policy to ensure the operation of the technology during any use of such computers by minors.

''(C) ADDITIONAL USE OF TECHNOLOGY.—A school, school board, or other authority may also use a technology covered by a certification under subparagraph (B) to filter or block Internet access through the computers concerned to any material in addition to the material specified in that subparagraph that the school, school board, or other authority determines to be inappropriate for minors.

''(D) TIMING OF CERTIFICATIONS.—

''(i) SCHOOLS WITH COMPUTERS ON EFFECTIVE DATE.—

''(I) IN GENERAL.—Subject to subclause (II), in the case of any school covered by this paragraph as of the effective date of this paragraph under section 602(h) of the Childrens' Internet Protection Act, the certification under subparagraph (B) shall be made not later than 30 days after such effective date.

''(II) DELAY.—A certification for a school covered by subclause (I) may be made at a date that is later than is otherwise required by that subclause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification on the date otherwise required by that subclause. A school, school board, or other authority with responsibility for administration of the school shall notify the Commission of the applicability of this subclause to the school. Such notice shall specify the date on which the certification with respect to the school shall be effective for purposes of this clause.

''(ii) SCHOOLS ACQUIRING COMPUTERS AFTER EFFECTIVE DATE.—In the case of any school that first becomes covered by this paragraph after such effective date, the certification under subparagraph (B) shall be made not later than 10 days after the date on which the school first becomes so covered.

''(iii) NO REQUIREMENT FOR ADDITIONAL CERTIFICATIONS.—A school that has submitted a certification under subparagraph (B) shall not be required for purposes of this paragraph to submit an additional certification under that subparagraph with respect to any computers having Internet access that are acquired by the school after the submittal of the certification.

''(E) NONCOMPLIANCE.—

''(i) FAILURE TO SUBMIT CERTIFICATION.—Any school that knowingly fails to submit a certification required by this paragraph shall reimburse each telecommunications carrier that provided such school services at discount rates under paragraph (1)(B) after the effective date of this paragraph under section 602(h) of the Childrens' Internet Protection Act in an amount equal to the amount of the discount provided such school by such carrier for such services during the period beginning on such effective date and ending on the date on which the provision of such services at discount rates under paragraph (1)(B) is determined to cease under subparagraph (F).

''(ii) FAILURE TO COMPLY WITH CERTIFICATION.—Any school that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraph (B) shall reimburse each telecommunications carrier that provided such school services at discount rates under paragraph (1)(B) after the date of such certification in an amount equal to the amount of the discount provided such school by such carrier for such services during the period beginning on the date of such certification and ending on the date on which the provision of such services at discount rates under paragraph (1)(B) is determined to cease under subparagraph (F).

''(iii) TREATMENT OF REIMBURSEMENT.—The receipt by a telecommunications carrier of any

reimbursement under this subparagraph shall not affect the carrier's treatment of the discount on which such reimbursement was based in accordance with the third sentence of paragraph (1)(B).

''(F) CESSATION DATE.—

''(i) DETERMINATION.—The Commission shall determine the date on which the provision of services at discount rates under paragraph (1)(B) shall cease under this paragraph by reason of the failure of a school to comply with the requirements of this paragraph.

''(ii) NOTIFICATION.—The Commission shall notify telecommunications carriers of each school determined to have failed to comply with the requirements of this paragraph and of the period for which such school shall be liable to make reimbursement under subparagraph (E).

''(G) RECOMMENCEMENT OF DISCOUNTS.—

''(i) RECOMMENCEMENT.—Upon submittal to the Commission of a certification under subparagraph (B) with respect to a school to which clause (i) or (ii) of subparagraph (E) applies, the school shall be entitled to services at discount rates under paragraph (1)(B).

''(ii) NOTIFICATION.—The Commission shall notify the school and telecommunications carriers of the recommencement of the school's entitlement to services at discount rates under this subparagraph and of the date on which such recommencement begins.

''(iii) ADDITIONAL NONCOMPLIANCE.—The provisions of subparagraphs (E) and (F) shall apply to any certification submitted under clause (i).

''(H) PUBLIC AVAILABILITY OF POLICY.—A school, school board, or other authority that enforces a policy under subparagraph (B)(ii) shall take appropriate actions to ensure the ready availability to the public of information on such policy and on its policy, if any, relating to the use of technology under subparagraph (C).

''(I) LIMITATION ON FEDERAL ACTION.—

''(i) IN GENERAL.—No agency or instrumentality of the United States Government may—

''(I) establish any criteria for making a determination under subparagraph (C);

''(II) review a determination made by a school, school board, or other authority for purposes of a certification under subparagraph (B); or

''(III) consider the criteria employed by a school, school board, or other authority for purposes of determining the eligibility of a school for services at discount rates under paragraph (1)(B).

''(ii) ACTION BY COMMISSION.—The Commission may not take any action against a school, school board, or other authority for a violation of a provision of this paragraph if the school, school board, or other authority, as the case may be, has made a good faith effort to comply with such provision.''.

(b) LIBRARIES.—Such section 254(h) is further amended by inserting after paragraph (5), as amended by subsection (a) of this section, the following new paragraph:

''(6) REQUIREMENTS FOR CERTAIN LIBRARIES WITH COMPUTERS HAVING INTERNET ACCESS.—

''(A) INTERNET FILTERING.—

''(i) IN GENERAL.—A library having one or more computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the library—

''(I) submits to the Commission a certification described in subparagraph (B); and

''(II) ensures the use of such computers in accordance with the certification.

''(ii) APPLICABILITY.—The prohibition in paragraph (1) shall not apply with respect to a library that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

''(B) CERTIFICATION.—

''(i) ACCESS OF MINORS TO CERTAIN MATERIAL.—A certification under this subparagraph is a certification that the library—

''(I) has selected a technology for its computer or computers with Internet access in order to filter or block Internet access through such computer or computers to—

''(aa) material that is obscene;

''(bb) child pornography; and

''(cc) any other material that the library determines to be inappropriate for minors; and

''(II) is enforcing a policy to ensure the operation of the technology during any use of such computer or computers by minors.

''(ii) ACCESS TO CHILD PORNOGRAPHY GENERALLY.—

''(I) IN GENERAL.—A certification under this subparagraph with respect to a library is also a certification that the library—

''(aa) has selected a technology for its computer or computers with Internet access in order to filter or block Internet access through such computer or computers to child pornography; and

''(bb) is enforcing a policy to ensure the operation of the technology during any use of such computer or computers.

''(II) SCOPE.—For purposes of identifying child pornography under subclause (I), a library may utilize the definition of that term in section 2256(8) of title 18, United States Code.

''(III) RELATIONSHIP TO OTHER CERTIFICATIONS.—The certification under this clause is in addition to any other certification applicable with respect to a library under this subparagraph.

''(C) ADDITIONAL USE OF TECHNOLOGY.—A library may also use a technology covered by a certification under subparagraph (B) to filter or block Internet access through the computers concerned to any material in addition to the material specified in that subparagraph that the library determines to be inappropriate for minors.

''(D) TIMING OF CERTIFICATIONS.—

''(i) LIBRARIES WITH COMPUTERS ON EFFECTIVE DATE.—

''(I) IN GENERAL.—In the case of any library covered by this paragraph as of the effective date of this paragraph under section 602(h) of the Childrens' Internet Protection Act, the certifications under subparagraph (B) shall be made not later than 30 days after such effective date.

''(II) DELAY.—The certifications for a library covered by subclause (I) may be made at a date than is later than is otherwise required by that subclause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certifications on the date otherwise required by that subclause. A library shall notify the Commission of the applicability of this subclause to the library. Such notice shall specify the date on which the certifications with respect to the library shall be effective for purposes of this clause.

''(ii) LIBRARIES ACQUIRING COMPUTERS AFTER EFFECTIVE DATE.—In the case of any library that first becomes subject to the certifications under subparagraph (B) after such effective date, the certifications under that subparagraph shall be made not later than 10 days after the date on which the library first becomes so subject.

''(iii) NO REQUIREMENT FOR ADDITIONAL CERTIFICATIONS.—A library that has submitted the certifications under subparagraph (B) shall not be required for purposes of this paragraph to submit an additional certifications under that subparagraph with respect to any computers having Internet access that are acquired by the library after the submittal of such certifications.

''(E) NONCOMPLIANCE.—

''(i) FAILURE TO SUBMIT CERTIFICATION.—Any library that knowingly fails to submit the certifications required by this paragraph shall reimburse each telecommunications carrier that provided such library services at discount rates under paragraph (1)(B) after the effective date of this paragraph under section 602(h) of the Childrens' Internet Protection Act in an amount equal to the amount of the discount provided such library by such carrier for such services during the period beginning on such effective date and ending on the date on which the provision of such services at discount rates under paragraph (1)(B) is determined to cease under subparagraph (F).

''(ii) FAILURE TO COMPLY WITH CERTIFICATION.—Any library that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraph (B) shall reimburse each telecommunications carrier that provided such library services at discount rates under paragraph (1)(B) after the date of such certification in an amount equal to the amount of the discount provided such library by such carrier for such services during the period beginning on the date of such certification and ending on the date on which the provision of such services at discount rates under paragraph (1)(B) is determined to cease under subparagraph (F).

''(iii) TREATMENT OF REIMBURSEMENT.—The receipt by a telecommunications carrier of any reimbursement under this subparagraph shall not affect the carrier's treatment of the discount on which such reimbursement was based in accordance with the third sentence of paragraph (1)(B).

''(F) CESSATION DATE.—

''(i) DETERMINATION.—The Commission shall determine the date on which the provision of services at discount rates under paragraph (1)(B) shall cease under this paragraph by reason of the failure of a library to comply with the requirements of this paragraph.

''(ii) NOTIFICATION.—The Commission shall notify telecommunications carriers of each library determined to have failed to comply with the requirements of this paragraph and of the period for which such library shall be liable to make reimbursement under subparagraph (E).

''(G) RECOMMENCEMENT OF DISCOUNTS.—

''(i) RECOMMENCEMENT.—Upon submittal to the Commission of a certification under subparagraph (B) with respect to a library to which clause (i) or (ii) of subparagraph (E) applies, the library shall be entitled to services at discount rates under paragraph (1)(B).

''(ii) NOTIFICATION.—The Commission shall notify the library and telecommunications carriers of the recommencement of the library's entitlement to services at discount rates under this paragraph and of the date on which such recommencement begins.

''(iii) ADDITIONAL NONCOMPLIANCE.—The provisions of subparagraphs (E) and (F) shall apply to any certification submitted under clause (i).

''(H) PUBLIC AVAILABILITY OF POLICY.—A library that enforces a policy under clause (i)(II) or (ii)(I)(bb) of subparagraph (B) shall take appropriate actions to ensure the ready availability to the public of information on such policy and on its policy, if any, relating to the use of technology under subparagraph (C).

''(I) LIMITATION ON FEDERAL ACTION.—

''(i) IN GENERAL.—No agency or instrumentality of the United States Government may—

''(I) establish any criteria for making a determination under subparagraph (C);

''(II) review a determination made by a library for purposes of a certification under subparagraph (B); or

''(III) consider the criteria employed by a library purposes of determining the eligibility of the library for services at discount rates under paragraph (1)(B).

''(ii) ACTION BY COMMISSION.—The Commission may not take any action against a library for a violation of a provision of this paragraph if the library has made a good faith effort to comply with such provision.''.

(c) MINOR DEFINED.—Paragraph (7) of such section, as redesignated by subsection (a)(1) of this section, is amended by adding at the end the following:

''(D) MINOR.—The term 'minor' means any individual who has not attained the age of 17 years.''.

(d) CONFORMING AMENDMENT.—Paragraph (4) of such section is amended by striking ''paragraph (5)(A)'' and inserting ''paragraph (7)(A)''.

(e) SEPARABILITY.—If any provision of paragraph (5) or (6) of section 254(h) of the Communications Act of 1934, as amended by this section, or the application thereof to any person or circumstance is held invalid, the remainder of such paragraph and the application of such paragraph to other persons or circumstances shall not be affected thereby.

(f) REGULATIONS.—

(1) REQUIREMENT.—The Federal Communications Commission shall prescribe regulations for purposes of administering the provisions of paragraphs (5) and (6) of section 254(h) of the Communications Act of 1934, as amended by this section.

(2) DEADLINE.—Notwithstanding any other provision of law, the requirements prescribed under paragraph (1) shall take effect 120 days after the date of the enactment of this Act.

(g) AVAILABILITY OF RATES.—Discounted rates under section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B))—

(1) shall be available in amounts up to the annual cap on Federal universal service support for schools and libraries only for services covered by Federal Communications Commission regulations on priorities for funding telecommunications services, Internet access, Internet services, and Internet connections that assign priority for available funds for the poorest schools; and

(2) to the extent made available under paragraph (1), may be used for the purchase or acquisition of filtering or blocking products necessary to meet the requirements of section 254(h)(5) and (6) of that Act, but not for the purchase of software or other technology other than what is required to meet those requirements.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect 120 days after the date of the enactment of this Act.

SEC. 603. FETAL TISSUE. The General Accounting Office shall conduct a comprehensive study into Federal involvement in the use of fetal tissue for research purposes within the scope of this Act to be completed by September 1, 2000. The study shall include but not be limited to—

(1) the annual number of orders for fetal tissue filled in conjunction with federally funded fetal tissue research or programs over the last 3 years;

(2) the costs associated with the procurement, dissemination, and other use of fetal tissue, including but not limited to the costs associated with the processing, transportation, preservation, quality control, and storage of such tissue;

(3) the manner in which Federal agencies ensure that intramural and extramural research facilities and their employees comply with Federal fetal tissue law;

(4) the number of fetal tissue procurement contractors and tissue resource sources, or other entities or individuals that are used to obtain, transport, process, preserve, or store fetal tissue, which receive Federal funds and the quantity, form, and nature of the services provided and the amount of Federal funds received by such entities;

(5) the number and identity of all Federal agencies within the scope of this Act expending or exchanging Federal funds in connection with obtaining or processing fetal tissue or the conduct of research using such tissue;

(6) the extent to which Federal fetal tissue procurement policies and guidelines adhere to Federal law;

(7) the criteria that Federal fetal tissue research facilities use for selecting their fetal tissue sources, and the manner in which the facilities ensure that such sources comply with Federal law.

SEC. 604. PROVISION OF INTERNET FILTERING OR SCREENING SOFTWARE BY CERTAIN INTERNET SERVICE PROVIDERS. (a) REQUIREMENT TO PROVIDE.—Each Internet service provider shall at the time of entering an agreement with a residential customer for the provision of Internet access services, provide to such customer, either at no fee or at a fee not in excess of the amount specified in subsection (c), computer software or other filtering or blocking system that allows the customer to prevent the access of minors to material on the Internet.

(b) SURVEYS OF PROVISION OF SOFTWARE OR SYSTEMS.—

(1) SURVEYS.—The Office of Juvenile Justice and Delinquency Prevention of the Department of Justice and the Federal Trade Commission shall jointly conduct surveys of the extent to which Internet service providers are providing computer software or systems described in subsection (a) to their subscribers. In performing such surveys, neither the Department nor the Commission shall collect personally identifiable information of subscribers of the Internet service providers.

(2) FREQUENCY.—The surveys required by paragraph (1) shall be completed as follows:

(A) One shall be completed not later than one year after the date of the enactment of this Act.

(B) One shall be completed not later than two years after that date.

(C) One shall be completed not later than three years after that date.

(c) FEES.—The fee, if any, charged and collected by an Internet service provider for providing computer software or a system described in subsection (a) to a residential customer shall not exceed the amount equal to the cost of the provider in providing the software or system to the subscriber, including the cost of the software or system and of any license required with respect to the software or system.

(d) APPLICABILITY.—The requirement described in subsection (a) shall become effective only if—

(1) 1 year after the date of the enactment of this Act, the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(A) that less than 75 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided computer software or systems described in subsection (a) by such providers;

(2) 2 years after the date of enactment of this Act, the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(B) that less than 85 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided such software or systems by such providers; or

(3) 3 years after the date of the enactment of this Act, if the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(C) that less than 100 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided such software or systems by such providers.

(e) INTERNET SERVICE PROVIDER DEFINED.—In this section, the term ''Internet service provider'' means a service provider as defined in section 512(k)(1)(A) of title 17, United States Code, which has more than 50,000 subscribers.

TITLE VII—UNIVERSAL SERVICE FOR SCHOOLS AND LIBRARIES

SEC. 701. SHORT TITLE. This title may be cited as the ''Neighborhood Children's Internet Protection Act''.

SEC. 702. NO UNIVERSAL SERVICE FOR SCHOOLS OR LIBRARIES THAT FAIL TO IMPLEMENT A FILTERING OR BLOCKING SYSTEM FOR COMPUTERS WITH INTERNET ACCESS OR ADOPT INTERNET USE POLICIES. (a) NO UNIVERSAL SERVICE.—

(1) IN GENERAL.—Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end the following:

''(l) IMPLEMENTATION OF INTERNET FILTERING OR BLOCKING SYSTEM OR USE POLICIES.—

''(1) IN GENERAL.—No services may be provided under subsection (h)(1)(B) to any elementary or secondary school, or any library, unless it provides the certification required by paragraph (2) to the Commission or its designee.

''(2) CERTIFICATION.—A certification under this paragraph with respect to a school or library is a certification by the school, school board, or other authority with responsibility for administration of the school, or the library, or any other entity representing the school or library in applying for universal service assistance, that the school or library—

''(A) has—

''(i) selected a system for its computers with Internet access that are dedicated to student use in order to filter or block Internet access to matter considered to be inappropriate for minors; and

''(ii) installed on such computers, or upon obtaining such computers will install on such computers, a system to filter or block Internet access to such matter; or

''(B)(i) has adopted and implemented an Internet use policy that addresses—

''(I) access by minors to inappropriate matter on the Internet and World Wide Web;

''(II) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

''(III) unauthorized access, including so-called 'hacking', and other unlawful activities by minors online;

''(IV) unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and

''(V) whether the school or library, as the case may be, is employing hardware, software, or other technological means to limit, monitor, or otherwise control or guide Internet access by minors; and

''(ii) provided reasonable public notice and held at least one public hearing or meeting which addressed the proposed Internet use policy.

''(3) LOCAL DETERMINATION OF CONTENT.—For purposes of a certification under paragraph (2), the determination regarding what matter is inappropriate for minors shall be made by the school board, library, or other authority responsible for making the determination. No agency or instrumentality of the United States Government may—

''(A) establish criteria for making such determination;

''(B) review the determination made by the certifying school, school board, library, or other authority; or

''(C) consider the criteria employed by the certifying school, school board, library, or other authority in the administration of subsection (h)(1)(B).

''(4) EFFECTIVE DATE.—This subsection shall apply with respect to schools and libraries seeking universal service assistance under subsection (h)(1)(B) on or after July 1, 2001.''.

(2) CONFORMING AMENDMENT.—Subsection (h)(1)(B) of that section is amended by striking ''All telecommunications'' and inserting ''Except as provided by subsection (l), all telecommunications''.

(b) STUDY.—Not later than 150 days after the date of the enactment of this Act, the National Telecommunications and Information Administration shall initiate a notice and comment proceeding for purposes of—

(1) evaluating whether or not currently available commercial Internet blocking, filtering, and monitoring software adequately addresses the needs of educational institutions;

(2) making recommendations on how to foster the development of products which meet such needs; and

(3) evaluating the development and effectiveness of local Internet use policies that are currently in operation after community input.

SEC. 703. IMPLEMENTING REGULATIONS. Not later than 100 days after the date of the enactment of this Act, the Federal Communications Commission shall adopt rules implementing this title and the amendments made by this title.

TITLE VIII—SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2000

SEC. 801. SHORT TITLE. This title may be cited as the ''Social Security and Medicare Off-Budget Lockbox Act of 2000''.

SEC. 802. STRENGTHENING SOCIAL SECURITY POINTS OF ORDER. (a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

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

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

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

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

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

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

Sec. 803. MEDICARE TRUST FUND OFF-BUDGET. (a) IN GENERAL.—

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

''EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS

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

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

''(2) the congressional budget; or

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

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

(2) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''316,'' after ''313,''.

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''316,'' after ''313,''.

(b) EXCLUSION OF MEDICARE TRUST FUND FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by adding at the end the following: ''The concurrent resolution shall not include the outlays and revenue totals of the Federal Hospital Insurance Trust Fund in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.''

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

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

(d) BUDGET RESOLUTIONS.—Section 301(i) of the Congressional Budget Act of 1974 (2 U.S.C. 632(i)) is amended by—

(1) striking ''SOCIAL SECURITY POINT OF ORDER.—It shall'' and inserting ''SOCIAL SECURITY AND MEDICARE POINTS OF ORDER.—

''(1) SOCIAL SECURITY.—It shall''; and

(2) inserting at the end the following:

''(2) MEDICARE.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on the resolution) that would decrease the excess of the Federal Hospital Insurance Trust Fund revenues over Federal Hospital Insurance Trust Fund outlays in any of the fiscal years covered by the concurrent resolution. This paragraph shall not apply to amounts to be expended from the Hospital Insurance Trust Fund for purposes relating to programs within part A of Medicare as provided in law on the date of enactment of this paragraph.''.

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

''(4) ENFORCEMENT OF MEDICARE LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any year relative to the levels set forth in the applicable resolution. This paragraph shall not apply to amounts to be expended from the Hospital Insurance Trust Fund for purposes relating to programs within part A of Medicare as provided in law on the date of enactment of this paragraph.''.

(f) BASELINE TO EXCLUDE HOSPITAL INSURANCE TRUST FUND.—Section 257(b)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''shall be included in all'' and inserting ''shall not be included in any''.

(g) MEDICARE TRUST FUND EXEMPT FROM SEQUESTERS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''Medicare as funded through the Federal Hospital Insurance Trust Fund.''.

(h) BUDGETARY TREATMENT OF HOSPITAL INSURANCE TRUST FUND.—Section 710(a) of the Social Security Act (42 U.S.C. 911(a)) is amended—

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

(2) by inserting after ''Federal Disability Insurance Trust Fund'' the following: '', Federal Hospital Insurance Trust Fund''.

SEC. 804. PREVENTING ON-BUDGET DEFICITS. (a) POINTS OF ORDER TO PREVENT ON-BUDGET DEFICITS.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by adding at the end the following:

''(h) POINTS OF ORDER TO PREVENT ON-BUDGET DEFICITS.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would cause or increase an on-budget deficit for any fiscal year.

''(2) SUBSEQUENT LEGISLATION.—Except as provided by paragraph (3), it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

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

''(C) the enactment of that bill or resolution in the form recommended in that conference report, would cause or increase an on-budget deficit for any fiscal year.''.

(b) SUPER MAJORITY REQUIREMENT.—

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

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(h),'' after ''312(g),''.

SEC. 805. SOCIAL SECURITY AND MEDICARE SAFE DEPOSIT BOX ACT OF 2000. (a) SHORT TITLE.—This section may be cited as the ''Social Security and Medicare Safe Deposit Box Act of 2000''.

(b) PROTECTION OF SOCIAL SECURITY AND MEDICARE SURPLUSES.—

(1) MEDICARE SURPLUSES OFF-BUDGET.—Notwithstanding any other provision of law, the net surplus of any trust fund for part A of Medicare shall not be counted as a net surplus for purposes of—

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

(B) the congressional budget; or

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

(2) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—Section 312 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(g) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would set forth an on-budget deficit for any fiscal year.

''(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

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

''(C) the enactment of that bill or resolution in the form recommended in that conference report, would cause or increase an on-budget deficit for any fiscal year.

''(3) DEFINITION.—For purposes of this section, the term 'on-budget deficit', when applied to a fiscal year, means the deficit in the budget as set forth in the most recently agreed to concurrent resolution on the budget pursuant to section 301(a)(3) for that fiscal year.''.

(3) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

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

(c) PROTECTION OF SOCIAL SECURITY AND MEDICARE SURPLUSES.—

(1) IN GENERAL.—Chapter 11 of subtitle II of title 31, United States Code, is amended by adding before section 1101 the following:

''§1100. Protection of social security and medicare surpluses

''The budget of the United States Government submitted by the President under this chapter shall not recommend an on-budget deficit for any fiscal year covered by that budget.''.

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 31, United States Code, is amended by inserting before the item for section 1101 the following:

''1100. Protection of social security and medicare surpluses.''.

(d) EFFECTIVE DATE.—This section shall take effect upon the date of its enactment and the amendments made by this section shall apply to fiscal year 2001 and subsequent fiscal years.

TITLE IX—GENETIC INFORMATION AND SERVICES

SEC. 901. SHORT TITLE. This title may be cited as the ''Genetic Information Nondiscrimination in Health Insurance Act of 2000''.

SEC. 902. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974. (a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

''SEC. 714. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).''.

(3) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 714.''.

(B) TABLE OF CONTENTS.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Prohibiting premium discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan or issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.''.

(c) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(7) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(8) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(9) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(d) EFFECTIVE DATE.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning 1 year after the date of the enactment of this Act.

SEC. 903. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT. (a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION IN THE GROUP MARKET.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(B) NO DISCRIMINATION IN PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following new section:

''SEC. 2707. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION IN THE GROUP MARKET.

''A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).''.

(C) CONFORMING AMENDMENT.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 2707.''.

(D) LIMITATION ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan or issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.''.

(2) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(17) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(18) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(19) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(e) AMENDMENTS TO PHSA RELATING TO THE INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) (42 U.S.C. 300gg–51 et seq.) is amended by adding at the end the following:

''SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''(a) PROHIBITION ON PREDICTIVE GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not use predictive genetic information as a condition of eligibility of an individual to enroll in individual health insurance coverage (including information about a request for or receipt of genetic services).

''(b) PROHIBITION ON PREDICTIVE GENETIC INFORMATION IN SETTING PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium rates for individuals on the basis of predictive genetic information concerning such an individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a health insurance issuer offering health insurance coverage in the individual market shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a health insurance issuer offering health insurance coverage in the individual market that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the health insurance issuer offering health insurance coverage in the individual market shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A health insurance issuer offering health insurance coverage in the individual market shall post or provide, in writing and in a clear and conspicuous manner, notice of the issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A health insurance issuer offering health insurance coverage in the individual market shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such issuer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after 1 year after the date of enactment of this Act; and

(2) health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after 1 year after the date of enactment of this Act.

SEC. 904. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986. (a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is further amended by adding at the end the following:

''SEC. 9813. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).''.

(B) CONFORMING AMENDMENT.—Section 9802(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or the receipt of genetic services), see section 9813.''.

(C) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 9813. Prohibiting premium discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(d) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES; DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (e), of such predictive genetic information.

''(e) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan.''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(8) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(9) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(10) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(d) EFFECTIVE DATE.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after 1 year after the date of the enactment of this Act.

DIVISION B—HEALTH CARE ACCESS AND PROTECTIONS FOR CONSUMERS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Patients' Bill of Rights Plus Act''.

TITLE XXI—TAX-RELATED HEALTH CARE PROVISIONS

Subtitle A—Health Care and Long-Term Care

SEC. 2101. DEDUCTION FOR HEALTH AND LONG-TERM CARE INSURANCE COSTS OF INDIVIDUALS NOT PARTICIPATING IN EMPLOYER-SUBSIDIZED HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

''SEC. 222. HEALTH AND LONG-TERM CARE INSURANCE COSTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.

''(b) APPLICABLE PERCENTAGE.—

''(1) IN GENERAL.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2002 and 2003	25
2004	35
2005	65
2006 and thereafter	100.

''(2) LONG-TERM CARE INSURANCE FOR INDIVIDUALS 60 YEARS OR OLDER.—In the case of amounts paid for a qualified long-term care insurance contract for an individual who has attained age 60 before the close of the taxable year, the applicable percentage is 100.

''(c) LIMITATION BASED ON OTHER COVERAGE.—

''(1) COVERAGE UNDER CERTAIN SUBSIDIZED EMPLOYER PLANS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer if 50 percent or more of the cost of coverage under such plan (determined under section 4980B and without regard to payments made with respect to any coverage described in subsection (e)) is paid or incurred by the employer.

''(B) EMPLOYER CONTRIBUTIONS TO CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND MEDICAL SAVINGS ACCOUNTS.—Employer contributions to a cafeteria plan, a flexible spending or similar arrangement, or a medical savings account which are excluded from gross income under section 106 shall be treated for purposes of subparagraph (A) as paid by the employer.

''(C) AGGREGATION OF PLANS OF EMPLOYER.—A health plan which is not otherwise described in subparagraph (A) shall be treated as described in such subparagraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

''(D) SEPARATE APPLICATION TO HEALTH INSURANCE AND LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (C) shall be applied separately with respect to—

''(i) plans which include primarily coverage for qualified long-term care services or are qualified long-term care insurance contracts, and

''(ii) plans which do not include such coverage and are not such contracts.

''(2) COVERAGE UNDER CERTAIN FEDERAL PROGRAMS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any amount paid for any coverage for an individual for any calendar month if, as of the first day of such month, the individual is covered under any medical care program described in—

''(i) title XVIII, XIX, or XXI of the Social Security Act,

''(ii) chapter 55 of title 10, United States Code,

''(iii) chapter 17 of title 38, United States Code,

''(iv) chapter 89 of title 5, United States Code, or

''(v) the Indian Health Care Improvement Act.

''(B) EXCEPTIONS.—

''(i) QUALIFIED LONG-TERM CARE.—Subparagraph (A) shall not apply to amounts paid for coverage under a qualified long-term care insurance contract.

''(ii) CONTINUATION COVERAGE OF FEHBP.—Subparagraph (A)(iv) shall not apply to coverage which is comparable to continuation coverage under section 4980B.

''(d) LONG-TERM CARE DEDUCTION LIMITED TO QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—In the case of a qualified long-term care insurance contract, only eligible long-term care premiums (as defined in section 213(d)(10)) may be taken into account under subsection (a).

''(e) DEDUCTION NOT AVAILABLE FOR PAYMENT OF ANCILLARY COVERAGE PREMIUMS.—Any amount paid as a premium for insurance which provides for—

''(1) coverage for accidents, disability, dental care, vision care, or a specified illness, or

''(2) making payments of a fixed amount per day (or other period) by reason of being hospitalized,

shall not be taken into account under subsection (a).

''(f) SPECIAL RULES.—

''(1) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

''(2) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to

carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (17) the following new item:

''(18) HEALTH AND LONG-TERM CARE INSURANCE COSTS.—The deduction allowed by section 222.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 222. Health and long-term care insurance costs.

''Sec. 223. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 2102. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''.

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) of such Code is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 2103. LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) CAFETERIA PLANS.—

(1) IN GENERAL.—Subsection (f) of section 125 of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by inserting before the period at the end ''; except that such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract''.

(b) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 of such Code (relating to contributions by employer to accident and health plans) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 2104. ADDITIONAL PERSONAL EXEMPTION FOR TAXPAYER CARING FOR ELDERLY FAMILY MEMBER IN TAXPAYER'S HOME.

(a) IN GENERAL.—Section 151 of the Internal Revenue Code of 1986 (relating to allowance of deductions for personal exemptions) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ADDITIONAL EXEMPTION FOR CERTAIN ELDERLY FAMILY MEMBERS RESIDING WITH TAXPAYER.—

''(1) IN GENERAL.—An exemption of the exemption amount for each qualified family member of the taxpayer.

''(2) QUALIFIED FAMILY MEMBER.—For purposes of this subsection, the term 'qualified family member' means, with respect to any taxable year, any individual—

''(A) who is an ancestor of the taxpayer or of the taxpayer's spouse or who is the spouse of any such ancestor,

''(B) who is a member for the entire taxable year of a household maintained by the taxpayer, and

''(C) who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in paragraph (3) for a period—

''(i) which is at least 180 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

''(3) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this paragraph if the individual—

''(A) is unable to perform (without substantial assistance from another individual) at least two activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(B) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least one activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(4) SPECIAL RULES.—Rules similar to the rules of paragraphs (1), (2), (3), (4), and (5) of section 21(e) shall apply for purposes of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 2105. STUDY OF LONG-TERM CARE NEEDS IN THE 21ST CENTURY.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall on or after October 1, 2001, provide, in accordance with this section, for a study in order to determine—

(1) future demand for long-term health care services (including institutional and home and community-based services) in the United States in order to meet the needs in the 21st century; and

(2) long-term options to finance the provision of such services.

(b) DETAILS.—The study conducted under subsection (a) shall include the following:

(1) An identification of the relevant demographic characteristics affecting demand for long-term health care services, at least through the year 2030.

(2) The viability and capacity of community-based and other long-term health care services under different federal programs, including through the medicare and medicaid programs, grants to States, housing services, and changes in tax policy.

(3) How to improve the quality of long-term health care services.

(4) The integration of long-term health care services for individuals between different classes of health care providers (such as hospitals, nursing facilities, and home care agencies) and different Federal programs (such as the medicare and medicaid programs).

(5) The possibility of expanding private sector initiatives, including long-term care insurance, to meet the need to finance such services.

(6) An examination of the effect of enactment of the Health Insurance Portability and Accountability Act of 1996 on the provision and financing of long-term health care services, including on portability and affordability of private long-term care insurance, the impact of insurance options on low-income older Americans, and the options for eligibility to improve access to such insurance.

(7) The financial impact of the provision of long-term health care services on caregivers and other family members.

(c) REPORT AND RECOMMENDATIONS.—

(1) IN GENERAL.—October 1, 2002, the Secretary shall provide for a report on the study under this section.

(2) RECOMMENDATIONS.—The report under paragraph (1) shall include findings and recommendations regarding each of the following:

(A) The most effective and efficient manner that the Federal Government may use its resources to educate the public on planning for needs for long-term health care services.

(B) The public, private, and joint public-private strategies for meeting identified needs for long-term health care services.

(C) The role of States and local communities in the financing of long-term health care services.

(3) INCLUSION OF COST ESTIMATES.—The report under paragraph (1) shall include cost estimates of the various options for which recommendations are made.

(d) CONDUCT OF STUDY.—

(1) USE OF INSTITUTE OF MEDICINE.—The Secretary of Health and Human Services shall seek to enter into an appropriate arrangement with the Institute of Medicine of the National Academy of Sciences to conduct the study under this section. If such an arrangement cannot be made, the Secretary may provide for the conduct of the study by any other qualified non-governmental entity.

(2) CONSULTATION.—The study should be conducted under this section in consultation with experts from a wide-range of groups from the public and private sectors.

Subtitle B—Medical Savings Accounts

SEC. 2111. EXPANSION OF AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) REPEAL OF LIMITATIONS ON NUMBER OF MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (D).

(B) Section 138 of such Code is amended by striking subsection (f).

(b) AVAILABILITY NOT LIMITED TO ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 220(c)(1)(A) of such Code (relating to eligible individual) is amended to read as follows:

''(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual if—

''(i) such individual is covered under a high deductible health plan as of the 1st day of such month, and

''(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

''(I) which is not a high deductible health plan, and

''(II) which provides coverage for any benefit which is covered under the high deductible health plan.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 220(c)(1) of such Code is amended by striking subparagraph (C).

(B) Section 220(c) of such Code is amended by striking paragraph (4) (defining small employer) and by redesignating paragraph (5) as paragraph (4).

(C) Section 220(b) of such Code is amended by striking paragraph (4) (relating to deduction limited by compensation) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(c) INCREASE IN AMOUNT OF DEDUCTION ALLOWED FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Paragraph (2) of section 220(b) of such Code is amended to read as follows:

''(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to 1/12 of the annual deductible (as of the first day of such month) of the individual's coverage under the high deductible health plan.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking ''75 percent of''.

(d) BOTH EMPLOYERS AND EMPLOYEES MAY CONTRIBUTE TO MEDICAL SAVINGS ACCOUNTS.—Paragraph (4) of section 220(b) of such Code (as redesignated by subsection (b)(2)(C)) is amended to read as follows:

''(4) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—The limitation which would (but for this paragraph) apply under this subsection to the taxpayer for any taxable year shall be reduced (but not below zero) by the amount which would (but for section 106(b)) be includible in the taxpayer's gross income for such taxable year.''.

(e) REDUCTION OF PERMITTED DEDUCTIBLES UNDER HIGH DEDUCTIBLE HEALTH PLANS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking ''$1,500'' in clause (i) and inserting ''$1,000'';

(B) by striking ''$3,000'' in clause (ii) and inserting ''$2,000''; and

(C) by striking the matter preceding subclause (I) in clause (iii) and inserting ''pursuant to which the annual out-of-pocket expenses (including deductibles and co-payments) are required to be paid under the plan (other than for premiums) for covered benefits and may not exceed—''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 220 of such Code is amended to read as follows:

''(g) COST-OF-LIVING ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2002, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) SPECIAL RULES.—In the case of the $1,000 amount in subsection (c)(2)(A)(i) and the $2,000 amount in subsection (c)(2)(A)(ii), paragraph (1)(B) shall be applied by substituting 'calendar year 2002' for 'calendar year 2001'.

''(3) ROUNDING.—If any increase under paragraph (1) or (2) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

(f) LIMITATION ON ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—Section 220(f)(4) of such Code (relating to additional tax on distributions not used for qualified medical expenses) is amended by adding at the end the following:

''(D) EXCEPTION IN CASE OF SUFFICIENT ACCOUNT BALANCE.—Subparagraph (A) shall not apply to any payment or distribution in any taxable year, but only to the extent such payment or distribution does not reduce the fair market value of the assets of the medical savings account to an amount less than the annual deductible for the high deductible health plan of the account holder (determined as of the earlier of January 1 of the calendar year in which the taxable year begins or January 1 of the last calendar year in which the account holder is covered under a high deductible health plan).''.

(g) TREATMENT OF NETWORK-BASED MANAGED CARE PLANS.—Section 220(c)(2)(B) of such Code (relating to special rules for high deductible health plans) is amended by adding at the end the following:

''(iii) TREATMENT OF NETWORK-BASED MANAGED CARE PLANS.—A plan which provides health care services through a network of contracted or affiliated health care providers, if the benefits provided when services are obtained through network providers meet the requirements of subparagraph (A), shall not fail to be treated as a high deductible health plan by reason of providing benefits for services rendered by providers who are not members of the network, so long as the annual deductible and annual limit on out-of-pocket expenses applicable to services received from non-network providers are not lower than those applicable to services received from the network providers.''.

(h) MEDICAL SAVINGS ACCOUNTS MAY BE OFFERED UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by striking ''106(b),''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(2) LIMITATION ON ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—The amendment made by subsection (f) shall apply to taxable years beginning after December 31, 2005.

SEC. 2112. AMENDMENTS TO TITLE 5, UNITED STATES CODE, RELATING TO MEDICAL SAVINGS ACCOUNTS AND HIGH DEDUCTIBLE HEALTH PLANS UNDER FEHBP.

(a) MEDICAL SAVINGS ACCOUNTS.—

(1) CONTRIBUTIONS.—Title 5, United States Code, is amended by redesignating section 8906a as section 8906c and by inserting after section 8906 the following:

''§ 8906a. Government contributions to medical savings accounts

''(a) An employee or annuitant enrolled in a high deductible health plan is entitled, in addition to the Government contribution under section 8906(b) toward the subscription charge for such plan, to have a Government contribution made, in accordance with succeeding provisions of this section, to a medical savings account of such employee or annuitant.

''(b)(1) The biweekly Government contribution under this section shall, in the case of any such employee or annuitant, be equal to the amount (if any) by which—

''(A) the biweekly equivalent of the maximum Government contribution for the contract year involved (as defined by paragraph (2)), exceeds

''(B) the amount of the biweekly Government contribution payable on such employee's or annuitant's behalf under section 8906(b) for the period involved.

''(2) For purposes of this section, the term 'maximum Government contribution' means, with respect to a contract year, the maximum Government contribution that could be made for health benefits for an employee or annuitant for such contract year, as determined under section 8906(b) (disregarding paragraph (2) thereof).

''(3) Notwithstanding any other provision of this section, no contribution under this section shall be payable to any medical savings account of an employee or annuitant for any period—

''(A) if, as of the first day of the month before the month in which such period commences, such employee or annuitant (or the spouse of such employee or annuitant, if coverage is for self and family) is entitled to benefits under part A of title XVIII of the Social Security Act;

''(B) to the extent that such contribution, when added to previous contributions made under this section for that same year with respect to such employee or annuitant, would cause the total to exceed—

''(i) the limitation under paragraph (1) of section 220(b) of the Internal Revenue Code of 1986 (determined without regard to paragraph (3) thereof) which is applicable to such employee or annuitant for the calendar year in which such period commences; or

''(ii) such lower amount as the employee or annuitant may specify in accordance with regulations of the Office, including an election not to receive contributions under this section for a year or the remainder of a year; or

''(C) for which any information (or documentation) under subsection (d) that is needed in order to make such contribution has not been timely submitted.

''(4) Notwithstanding any other provision of this section, no contribution under this section shall be payable to any medical savings account of an employee for any period in a contract year unless that employee was enrolled in a health benefits plan under this chapter as an employee for not less than—

''(A) the 1 year of service immediately before the start of such contract year, or

''(B) the full period or periods of service between the last day of the first period, as prescribed by regulations of the Office of Personnel Management, in which he is eligible to enroll in the plan and the day before the start of such contract year,

whichever is shorter.

''(5) The Office shall provide for the conversion of biweekly rates of contributions specified by paragraph (1) to rates for employees and annuitants whose pay or annuity is provided on other than a biweekly basis, and for this purpose may provide for the adjustment of the converted rate to the nearest cent.

''(c) A Government contribution under this section—

''(1) shall be made at the same time that, and the same frequency with which, Government contributions under section 8906(b) are made for the benefit of the employee or annuitant involved; and

''(2) shall be payable from the same appropriation, fund, account, or other source as would any Government contributions under section 8906(b) with respect to the employee or annuitant involved.

''(d) The Office shall by regulation prescribe the time, form, and manner in which an employee or annuitant shall submit any information (and supporting documentation) necessary to identify any medical savings account to which contributions under this section are requested to be made.

''(e) Nothing in this section shall be considered to entitle an employee or annuitant to any Government contribution under this section with respect to any period for which such employee or annuitant is ineligible for a Government contribution under section 8906(b).

''§ 8906b. Individual contributions to medical savings accounts

''(a) Upon the written request of an employee or annuitant enrolled in a high deductible health plan, there shall be withheld from the pay or annuity of such employee or annuitant and contributed to the medical savings account identified by such employee or annuitant in accordance with applicable regulations under subsection (c) such amount as the employee or annuitant may specify.

''(b) Notwithstanding subsection (a), no withholding under this section may be made from the pay or annuity of an employee or annuitant for any period—

''(1) if, or to the extent that, a Government contribution for such period under section 8906a would not be allowable by reason of subparagraph (A) or (B)(i) of subsection (b)(3) thereof;

''(2) for which any information (or documentation) that is needed in order to make such contribution has not been timely submitted; or

''(3) if the employee or annuitant submits a request for termination of withholdings, beginning on or after the effective date of the request and before the end of the year.

''(c) The Office of Personnel Management shall prescribe any regulations necessary to carry out this section, including provisions relating to the time, form, and manner in which any request for withholdings under this section may be made, changed, or terminated.''.

(2) RULES OF CONSTRUCTION.—Nothing in this section or in any amendment made by this section shall be considered—

(A) to permit or require that any contributions to a medical savings account (whether by the Government or through withholdings from pay or annuity) be paid into the Employees Health Benefits Fund; or

(B) to affect any authority under section 1005(f) of title 39, United States Code, to vary, add to, or substitute for any provision of chapter 89 of title 5, United States Code, as amended by this section.

(3) CONFORMING AMENDMENTS.—

(A) The table of sections at the beginning of chapter 89 of title 5, United States Code, is amended by striking the item relating to section 8906a and inserting the following:

''8906a. Government contributions to medical savings accounts.
''8906b. Individual contributions to medical savings accounts.
''8906c. Temporary employees.''.

(B) Section 8913(b)(4) of title 5, United States Code, is amended by striking ''8906a(a)'' and inserting ''8906c(a)''.

(b) INFORMATIONAL REQUIREMENTS.—Section 8907 of title 5, United States Code, is amended by adding at the end the following:

''(c) In addition to any information otherwise required under this section, the Office shall make available to all employees and annuitants eligible to enroll in a high deductible health plan, information relating to—

''(1) the conditions under which Government contributions under section 8906a shall be made to a medical savings account;

''(2) the amount of any Government contributions under section 8906a to which an employee or annuitant may be entitled (or how such amount may be ascertained);

''(3) the conditions under which contributions to a medical savings account may be made under section 8906b through withholdings from pay or annuity; and

''(4) any other matter the Office considers appropriate in connection with medical savings accounts.''.

(c) HIGH DEDUCTIBLE HEALTH PLAN AND MEDICAL SAVINGS ACCOUNT DEFINED.—Section 8901 of title 5, United States Code, is amended—

(1) in paragraph (10) by striking ''and'' after the semicolon;

(2) in paragraph (11) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(12) the term 'high deductible health plan' means a plan described by section 8903(5) or section 8903a(d); and

''(13) the term 'medical savings account' has the meaning given such term by section 220(d) of the Internal Revenue Code of 1986.''.

(d) AUTHORITY TO CONTRACT FOR HIGH DEDUCTIBLE HEALTH PLANS, ETC.—

(1) CONTRACTS FOR HIGH DEDUCTIBLE HEALTH PLANS.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

''(p)(1) The Office shall contract under this chapter for a high deductible health plan with any qualified carrier that offers such a plan and, as of the date of enactment of this subsection, offers a health benefits plan under this chapter.

''(2) The Office may contract under this chapter for a high deductible health plan with any qualified carrier that offers such a plan, but does not, as of the date of enactment of this subsection, offer a health benefits plan under this chapter.''.

(2) COMPUTATION OF GOVERNMENT CONTRIBUTIONS TO PLANS UNDER CHAPTER 89 NOT AFFECTED BY HIGH DEDUCTIBLE HEALTH PLANS.—Paragraph (2) of section 8906(a) of title 5, United States Code, is amended by striking ''(2)'' and inserting ''(2)(A)'', and adding at the end the following:

''(B) Notwithstanding any other provision of this section, the subscription charges for, and the number of enrollees enrolled in, high deductible health plans shall be disregarded for purposes of determining any weighted average under paragraph (1).''.

(e) DESCRIPTION OF HIGH DEDUCTIBLE HEALTH PLANS AND BENEFITS TO BE PROVIDED THEREUNDER.—

(1) IN GENERAL.—Section 8903 of title 5, United States Code, is amended by adding at the end the following:

''(5) HIGH DEDUCTIBLE HEALTH PLANS.—(A) One or more plans described by paragraph (1), (2), (3), or (4), which—

''(i) are high deductible health plans (as defined by section 220(c)(2) of the Internal Revenue Code of 1986); and

''(ii) provide benefits of the types referred to by section 8904(a)(5).

''(B) Nothing in this section shall be considered—

''(i) to prevent a carrier from simultaneously offering a plan described by subparagraph (A) and a plan described by paragraph (1) or (2); or

''(ii) to require that a high deductible health plan offer two levels of benefits.''.

(2) TYPES OF BENEFITS.—Section 8904(a) of title 5, United States Code, is amended by inserting after paragraph (4) the following:

''(5) HIGH DEDUCTIBLE HEALTH PLANS.—Benefits of the types named under paragraph (1) or (2) of this subsection or both.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 8903a of title 5, United States Code, is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

''(d) The plans under this section may include one or more plans, otherwise allowable under this section, that satisfy the requirements of clauses (i) and (ii) of section 8903(5)(A).''.

(B) Section 8909(d) of title 5, United States Code, is amended by striking ''8903a(d)'' and inserting ''8903a(e)''.

(4) REFERENCES.—Section 8903 of title 5, United States Code, is amended by adding after paragraph (5) (as added by paragraph (1) of this subsection) as a flush left sentence, the following:

''The Office shall prescribe regulations in accordance with which the requirements of section 8902(c), 8902(n), 8909(e), and any other provision of this chapter that applies with respect to a plan described by paragraph (1), (2), (3), or (4) of this section shall apply with respect to the corresponding plan under paragraph (5) of this section. Similar regulations shall be prescribed with respect to any plan under section 8903a(d).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after October 1, 2001. The Office of Personnel Management shall take appropriate measures to ensure that coverage under a high deductible health plan under chapter 89 of title 5, United States Code (as amended by this section) shall be available as of the beginning of the first contract year described in the preceding sentence.

SEC. 2113. RULE WITH RESPECT TO CERTAIN PLANS.

(a) IN GENERAL.—Notwithstanding any other provision of law, health insurance issuers may offer, and eligible individuals may purchase, high deductible health plans described in section 220(c)(2)(A) of the Internal Revenue Code of 1986. Effective for the 5-year period beginning on October 1, 2001, such health plans shall not be required to provide payment for any health care items or services that are exempt from the plan's deductible.

(b) EXISTING STATE LAWS.—A State law relating to payment for health care items and services in effect on the date of enactment of this Act that is preempted under paragraph (1), shall not apply to high deductible health plans after the expiration of the 5-year period described in such paragraph unless the State reenacts such law after such period.

Subtitle C—Other Health-Related Provisions

SEC. 2121. EXPANDED HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Subclause (I) of section 45C(b)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

''(I) after the date that the application is filed for designation under such section 526, and''.

(b) CONFORMING AMENDMENT.—Clause (i) of section 45C(b)(2)(A) of such Code is amended by inserting ''which is'' before ''being'' and by inserting before the comma at the end ''and which is designated under section 526 of such Act''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2001.

SEC. 2122. CARRYOVER OF UNUSED BENEFITS FROM CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND HEALTH FLEXIBLE SPENDING ACCOUNTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j) and by inserting after subsection (g) the following new subsection:

''(h) ALLOWANCE OF CARRYOVERS OF UNUSED BENEFITS TO LATER TAXABLE YEARS.—

''(1) IN GENERAL.—For purposes of this title—

''(A) notwithstanding subsection (d)(2), a plan or other arrangement shall not fail to be treated as a cafeteria plan or flexible spending or similar arrangement, and

''(B) no amount shall be required to be included in gross income by reason of this section or any other provision of this chapter,

solely because under such plan or other arrangement any nontaxable benefit which is unused as of the close of a taxable year may be carried forward to 1 or more succeeding taxable years.

''(2) LIMITATION.—Paragraph (1) shall not apply to amounts carried from a plan to the extent such amounts exceed $500 (applied on an annual basis). For purposes of this paragraph, all plans and arrangements maintained by an employer or any related person shall be treated as 1 plan.

''(3) ALLOWANCE OF ROLLOVER.—

''(A) IN GENERAL.—In the case of any unused benefit described in paragraph (1) which consists of amounts in a health flexible spending account or dependent care flexible spending account, the plan or arrangement shall provide that a participant may elect, in lieu of such carryover, to have such amounts distributed to the participant.

''(B) AMOUNTS NOT INCLUDED IN INCOME.—Any distribution under subparagraph (A) shall not be included in gross income to the extent that such amount is transferred in a trustee-to-trustee transfer, or is contributed within 60 days of the date of the distribution, to—

''(i) a qualified cash or deferred arrangement described in section 401(k),

''(ii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(iii) an eligible deferred compensation plan described in section 457, or

''(iv) a medical savings account (within the meaning of section 220).

Any amount rolled over under this subparagraph shall be treated as a rollover contribution

for the taxable year from which the unused amount would otherwise be carried.

''(C) TREATMENT OF ROLLOVER.—Any amount rolled over under subparagraph (B) shall be treated as an eligible rollover under section 220, 401(k), 403(b), or 457, whichever is applicable, and shall be taken into account in applying any limitation (or participation requirement) on employer or employee contributions under such section or any other provision of this chapter for the taxable year of the rollover.

''(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, the $500 amount under paragraph (2) shall be adjusted at the same time and in the same manner as under section 415(d)(2), except that the base period taken into account shall be the calendar quarter beginning October 1, 2001, and any increase which is not a multiple of $50 shall be rounded to the next lowest multiple of $50.

''(5) APPLICABILITY.—This subsection shall apply to taxable years beginning after December 31, 2001.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 2123. REDUCTION IN TAX ON VACCINES.

(a) IN GENERAL.—Paragraph (1) of section 4131(b) of the Internal Revenue Code of 1986 (relating to amount of tax) is amended by striking ''75 cents'' and inserting ''50 cents''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.

Subtitle D—Miscellaneous Provisions

SEC. 2131. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this division (or an amendment made by this division) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this division has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this division has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such division.

SEC. 2132. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''2003'' and inserting ''2010''.

SEC. 2133. ESTABLISHMENT OF MEDICARE ADMINISTRATIVE FEE FOR SUBMISSION OF PAPER CLAIMS.

(a) IMPOSITION OF FEE.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Health and Human Services shall establish (in the form of a separate fee or reduction of payment otherwise made under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) an administrative fee of $1 for the submission of a claim in a paper or non-electronic form for items or services for which payment is sought under such title.

(b) EXCEPTION AUTHORITY.—The Secretary of Health and Human Services shall waive the imposition of the fee under subsection (a)—

(1) in cases in which there is no method available for the submission of claims other than in a paper or non-electronic form; and

(2) for rural providers and small providers that the Secretary determines, under procedures established by the Secretary, are unable to purchase the necessary hardware in order to submit claims electronically.

(c) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this section as an allowable item on a cost report under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or title XIX of such Act (42 U.S.C. 1396 et seq.).

(d) EFFECTIVE DATE.—The provisions of this section apply to claims submitted on or after January 1, 2002.

SEC. 2134. ESTABLISHMENT OF MEDICARE ADMINISTRATIVE FEE FOR SUBMISSION OF DUPLICATE AND UNPROCESSABLE CLAIMS.

(a) IMPOSITION OF FEE.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall establish (in the form of a separate fee or reduction of payment otherwise made under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) an administrative fee of $2 for the submission of a claim described in subsection (b).

(b) CLAIMS SUBJECT TO FEE.—A claim described in this subsection is a claim that—

(1) is submitted by an individual or entity for items or services for which payment is sought under title XVIII of the Social Security Act; and

(2) either—

(A) duplicates, in whole or in part, another claim submitted by the same individual or entity; or

(B) is a claim that cannot be processed and must, in accordance with the Secretary of Health and Human Service's instructions, be returned by the fiscal intermediary or carrier to the individual or entity for completion.

(c) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this section as an allowable item on a cost report under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or title XIX of such Act (42 U.S.C. 1396 et seq.).

(d) EFFECTIVE DATE.—The provisions of this section apply to claims submitted on or after January 1, 2002.

TITLE XXII—PATIENTS' BILL OF RIGHTS

Subtitle A—Right to Advice and Care

SEC. 2201. PATIENT RIGHT TO MEDICAL ADVICE AND CARE.

(a) IN GENERAL.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.) is amended—

(1) by redesignating subpart C as subpart D; and

(2) by inserting after subpart B the following:

''Subpart C—Patient Right to Medical Advice and Care

''SEC. 721. ACCESS TO EMERGENCY MEDICAL CARE.

''(a) COVERAGE OF EMERGENCY SERVICES.—If a group health plan (other than a fully insured group health plan) provides coverage for any benefits consisting of emergency medical care, except for items or services specifically excluded from coverage, the plan shall, without regard to prior authorization or provider participation—

''(1) provide coverage for emergency medical screening examinations to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary; and

''(2) provide coverage for additional emergency medical care to stabilize an emergency medical condition following an emergency medical screening examination (if determined necessary), pursuant to the definition of stabilize under section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

''(b) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—If a group health plan (other than a fully insured group health plan) provides coverage for any benefits consisting of emergency ambulance services, except for items or services specifically excluded from coverage, the plan shall, without regard to prior authorization or provider participation, provide coverage for emergency ambulance services to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such emergency ambulance services to be necessary.

''(c) CARE AFTER STABILIZATION.—

''(1) IN GENERAL.—In the case of medically necessary and appropriate items or services related to the emergency medical condition that may be provided to a participant or beneficiary by a nonparticipating provider after the participant or beneficiary is stabilized, the nonparticipating provider shall contact the plan as soon as practicable, but not later than 2 hours after stabilization occurs, with respect to whether—

''(A) the provision of items or services is approved;

''(B) the participant or beneficiary will be transferred; or

''(C) other arrangements will be made concerning the care and treatment of the participant or beneficiary.

''(2) FAILURE TO RESPOND AND MAKE ARRANGEMENTS.—If a group health plan fails to respond and make arrangements within 2 hours of being contacted in accordance with paragraph (1), then the plan shall be responsible for the cost of any additional items or services provided by the nonparticipating provider if—

''(A) coverage for items or services of the type furnished by the nonparticipating provider is available under the plan;

''(B) the items or services are medically necessary and appropriate and related to the emergency medical condition involved; and

''(C) the timely provision of the items or services is medically necessary and appropriate.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to apply to a group health plan that does not require prior authorization for items or services provided to a participant or beneficiary after the participant or beneficiary is stabilized.

''(d) REIMBURSEMENT TO A NON-PARTICIPATING PROVIDER.—The responsibility of a group health plan to provide reimbursement to a nonparticipating provider under this section shall cease accruing upon the earlier of—

''(1) the transfer or discharge of the participant or beneficiary; or

''(2) the completion of other arrangements made by the plan and the nonparticipating provider.

''(e) RESPONSIBILITY OF PARTICIPANT.—With respect to items or services provided by a nonparticipating provider under this section, the participant or beneficiary shall not be responsible for amounts that exceed the amounts (including co-insurance, co-payments, deductibles or any other form of cost-sharing) that would be incurred if the care was provided by a participating health care provider with prior authorization.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan from negotiating reimbursement rates with a nonparticipating provider for items or services provided under this section.

''(g) DEFINITIONS.—In this section:

''(1) EMERGENCY AMBULANCE SERVICES.—The term 'emergency ambulance services' means, with respect to a participant or beneficiary under a group health plan (other than a fully insured group health plan), ambulance services furnished to transport an individual who has an emergency medical condition to a treating facility for receipt of emergency medical care if—

''(A) the emergency services are covered under the group health plan (other than a fully insured group health plan) involved; and

''(B) a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of such transport to result in placing the health of the participant

or beneficiary (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

''(2) EMERGENCY MEDICAL CARE.—The term 'emergency medical care' means, with respect to a participant or beneficiary under a group health plan (other than a fully insured group health plan), covered inpatient and outpatient items or services that—

''(A) are furnished by any provider, including a nonparticipating provider, that is qualified to furnish such items or services; and

''(B) are needed to evaluate or stabilize (as such term is defined in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)) an emergency medical condition.

''(3) EMERGENCY MEDICAL CONDITION.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the participant or beneficiary (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

''SEC. 722. OFFERING OF CHOICE OF COVERAGE OPTIONS.

''(a) REQUIREMENT.—If a group health plan (other than a fully insured group health plan) provides coverage for benefits only through a defined set of participating health care professionals, the plan shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan and at such other times as the plan offers the participant a choice of coverage options.

''(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term 'point-of-service coverage' means, with respect to benefits covered under a group health plan (other than a fully insured group health plan), coverage of such benefits when provided by a nonparticipating health care professional.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (other than a fully insured group health plan) of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan (other than a fully insured group health plan) with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. For purposes of this paragraph, the provisions of subparagraph (C) of section 712(c)(1) shall apply in determining employer size.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring coverage for benefits for a particular type of health care professional;

''(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options;

''(3) as preventing a group health plan (other than a fully insured group health plan) from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option; or

''(4) to require that a group health plan (other than a fully insured group health plan) include coverage of health care professionals that the plan excludes because of fraud, quality of care, or other similar reasons with respect to such professionals.

''SEC. 723. PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

''(a) GENERAL RIGHTS.—

''(1) DIRECT ACCESS.—A group health plan described in subsection (b) may not require authorization or referral by the primary care provider described in subsection (b)(2) in the case of a female participant or beneficiary who seeks coverage for obstetrical or gynecological care provided by a participating physician who specializes in obstetrics or gynecology.

''(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

''(b) APPLICATION OF SECTION.—A group health plan described in this subsection is a group health plan (other than a fully insured group health plan), that—

''(1) provides coverage for obstetric or gynecologic care; and

''(2) requires the designation by a participant or beneficiary of a participating primary care provider other than a physician who specializes in obstetrics or gynecology.

''(c) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) to require that a group health plan approve or provide coverage for—

''(A) any items or services that are not covered under the terms and conditions of the group health plan;

''(B) any items or services that are not medically necessary and appropriate; or

''(C) any items or services that are provided, ordered, or otherwise authorized under subsection (a)(2) by a physician unless such items or services are related to obstetric or gynecologic care;

''(2) to preclude a group health plan from requiring that the physician described in subsection (a) notify the designated primary care professional or case manager of treatment decisions in accordance with a process implemented by the plan, except that the group health plan shall not impose such a notification requirement on the participant or beneficiary involved in the treatment decision;

''(3) to preclude a group health plan from requiring authorization, including prior authorization, for certain items and services from the physician described in subsection (a) who specializes in obstetrics and gynecology if the designated primary care provider of the participant or beneficiary would otherwise be required to obtain authorization for such items or services;

''(4) to require that the participant or beneficiary described in subsection (a)(1) obtain authorization or a referral from a primary care provider in order to obtain obstetrical or gynecological care from a health care professional other than a physician if the provision of obstetrical or gynecological care by such professional is permitted by the group health plan and consistent with State licensure, credentialing, and scope of practice laws and regulations; or

''(5) to preclude the participant or beneficiary described in subsection (a)(1) from designating a health care professional other than a physician as a primary care provider if such designation is permitted by the group health plan and the treatment by such professional is consistent with State licensure, credentialing, and scope of practice laws and regulations.

''SEC. 724. ACCESS TO PEDIATRIC CARE.

''(a) PEDIATRIC CARE.—If a group health plan (other than a fully insured group health plan) requires or provides for a participant or beneficiary to designate a participating primary care provider for a child of such participant or beneficiary, the plan shall permit the participant or beneficiary to designate a physician who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan.

''(b) RULES OF CONSTRUCTION.—With respect to the child of a participant or beneficiary, nothing in subsection (a) shall be construed to—

''(1) require that the participant or beneficiary obtain prior authorization or a referral from a primary care provider in order to obtain pediatric care from a health care professional other than a physician if the provision of pediatric care by such professional is permitted by the plan and consistent with State licensure, credentialing, and scope of practice laws and regulations; or

''(2) preclude the participant or beneficiary from designating a health care professional other than a physician as a primary care provider for the child if such designation is permitted by the plan and the treatment by such professional is consistent with State licensure, credentialing, and scope of practice laws.

''SEC. 725. TIMELY ACCESS TO SPECIALISTS.

''(a) TIMELY ACCESS.—

''(1) IN GENERAL.—A group health plan (other than a fully insured group health plan) shall ensure that participants and beneficiaries receive timely coverage for access to specialists who are appropriate to the medical condition of the participant or beneficiary, when such specialty care is a covered benefit under the plan.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

''(A) to require the coverage under a group health plan (other than a fully insured group health plan) of benefits or services;

''(B) to prohibit a plan from including providers in the network only to the extent necessary to meet the needs of the plan's participants and beneficiaries;

''(C) to prohibit a plan from establishing measures designed to maintain quality and control costs consistent with the responsibilities of the plan; or

''(D) to override any State licensure or scope-of-practice law.

''(3) ACCESS TO CERTAIN PROVIDERS.—

''(A) PARTICIPATING PROVIDERS.—Nothing in this section shall be construed to prohibit a group health plan (other than a fully insured group health plan) from requiring that a participant or beneficiary obtain specialty care from a participating specialist.

''(B) NONPARTICIPATING PROVIDERS.—

''(i) IN GENERAL.—With respect to specialty care under this section, if a group health plan (other than a fully insured group health plan) determines that a participating specialist is not available to provide such care to the participant or beneficiary, the plan shall provide for coverage of such care by a nonparticipating specialist.

''(ii) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a group health plan (other than a fully insured group health plan) refers a participant or beneficiary to a nonparticipating specialist pursuant to clause (i), such specialty care shall be provided at no additional cost to the participant or beneficiary beyond what the participant or beneficiary would otherwise pay for such specialty care if provided by a participating specialist.

''(b) REFERRALS.—

''(1) AUTHORIZATION.—Nothing in this section shall be construed to prohibit a group health plan (other than a fully insured group health plan) from requiring an authorization in order to obtain coverage for specialty services so long as such authorization is for an appropriate duration or number of referrals.

''(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

''(A) IN GENERAL.—A group health plan (other than a fully insured group health plan) shall permit a participant or beneficiary who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and

such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan referred to in subsection (c) with respect to the condition.

''(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term 'ongoing special condition' means a condition or disease that—

''(i) is life-threatening, degenerative, or disabling; and

''(ii) requires specialized medical care over a prolonged period of time.

''(c) TREATMENT PLANS.—

''(1) IN GENERAL.—Nothing in this section shall be construed to prohibit a group health plan (other than a fully insured group health plan) from requiring that specialty care be provided pursuant to a treatment plan so long as the treatment plan is—

''(A) developed by the specialist, in consultation with the case manager or primary care provider, and the participant or beneficiary;

''(B) approved by the plan in a timely manner if the plan requires such approval; and

''(C) in accordance with the applicable quality assurance and utilization review standards of the plan.

''(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan from requiring the specialist to provide the plan with regular updates on the specialty care provided, as well as all other necessary medical information.

''(d) SPECIALIST DEFINED.—For purposes of this section, the term 'specialist' means, with respect to the medical condition of the participant or beneficiary, a health care professional, facility, or center (such as a center of excellence) that has adequate expertise (including age-appropriate expertise) through appropriate training and experience.

''(e) RIGHT TO EXTERNAL REVIEW.—Pursuant to the requirements of section 503B, a participant or beneficiary shall have the right to an independent external review if the denial of an item or service or condition that is required to be covered under this section is eligible for such review.

''SEC. 726. CONTINUITY OF CARE.

''(a) TERMINATION OF PROVIDER.—If a contract between a group health plan (other than a fully insured group health plan) and a treating health care provider is terminated (as defined in paragraph (e)(4)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan, and an individual who is a participant or beneficiary in the plan is undergoing an active course of treatment for a serious and complex condition, institutional care, pregnancy, or terminal illness from the provider at the time the plan receives or provides notice of such termination, the plan shall—

''(1) notify the individual, or arrange to have the individual notified pursuant to subsection (d)(2), on a timely basis of such termination;

''(2) provide the individual with an opportunity to notify the plan of the individual's need for transitional care; and

''(3) subject to subsection (c), permit the individual to elect to continue to be covered with respect to the active course of treatment with the provider's consent during a transitional period (as provided for under subsection (b)).

''(b) TRANSITIONAL PERIOD.—

''(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this section with respect to a serious and complex condition shall extend for up to 90 days from the date of the notice described in subsection (a)(1) of the provider's termination.

''(2) INSTITUTIONAL OR INPATIENT CARE.—

''(A) IN GENERAL.—The transitional period under this section for institutional or non-elective inpatient care from a provider shall extend until the earlier of—

''(i) the expiration of the 90-day period beginning on the date on which the notice described in subsection (a)(1) of the provider's termination is provided; or

''(ii) the date of discharge of the individual from such care or the termination of the period of institutionalization.

''(B) SCHEDULED CARE.—The 90 day limitation described in subparagraph (A)(i) shall include post-surgical follow-up care relating to non-elective surgery that has been scheduled before the date of the notice of the termination of the provider under subsection (a)(1).

''(3) PREGNANCY.—If—

''(A) a participant or beneficiary has entered the second trimester of pregnancy at the time of a provider's termination of participation; and

''(B) the provider was treating the pregnancy before the date of the termination;

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

''(4) TERMINAL ILLNESS.—If—

''(A) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation; and

''(B) the provider was treating the terminal illness before the date of termination;

the transitional period under this subsection shall extend for the remainder of the individual's life for care that is directly related to the treatment of the terminal illness.

''(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan (other than a fully insured group health plan) may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

''(1) The treating health care provider agrees to accept reimbursement from the plan and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or at the rates applicable under the replacement plan after the date of the termination of the contract with the group health plan) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in this section had not been terminated.

''(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan responsible for payment under paragraph (1) and to provide to such plan necessary medical information related to the care provided.

''(3) The treating health care provider agrees otherwise to adhere to such plan's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan.

''(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

''(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan from requiring that the health care provider—

''(A) notify participants or beneficiaries of their rights under this section; or

''(B) provide the plan with the name of each participant or beneficiary who the provider believes is eligible for transitional care under this section.

''(e) DEFINITIONS.—In this section:

''(1) CONTRACT.—The term 'contract between a plan and a treating health care provider' shall include a contract between such a plan and an organized network of providers.

''(2) HEALTH CARE PROVIDER.—The term 'health care provider' or 'provider' means—

''(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

''(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

''(3) SERIOUS AND COMPLEX CONDITION.—The term 'serious and complex condition' means, with respect to a participant or beneficiary under the plan, a condition that is medically determinable and—

''(A) in the case of an acute illness, is a condition serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

''(B) in the case of a chronic illness or condition, is an illness or condition that—

''(i) is complex and difficult to manage;

''(ii) is disabling or life-threatening; and

''(iii) requires—

''(I) frequent monitoring over a prolonged period of time and requires substantial on-going specialized medical care; or

''(II) frequent ongoing specialized medical care across a variety of domains of care.

''(4) TERMINATED.—The term 'terminated' includes, with respect to a contract (as defined in paragraph (1)), the expiration or nonrenewal of the contract by the group health plan, but does not include a termination of the contract by the plan for failure to meet applicable quality standards or for fraud.

''(f) RIGHT TO EXTERNAL REVIEW.—Pursuant to the requirements of section 503B, a participant or beneficiary shall have the right to an independent external review if the denial of an item or service or condition that is required to be covered under this section is eligible for such review.

''SEC. 727. PROTECTION OF PATIENT-PROVIDER COMMUNICATIONS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (other than a fully insured group health plan and in relation to a participant or beneficiary) shall not prohibit or otherwise restrict a health care professional from advising such a participant or beneficiary who is a patient of the professional about the health status of the participant or beneficiary or medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether coverage for such care or treatment are provided under the contract, if the professional is acting within the lawful scope of practice.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan (other than a fully insured group health plan) to provide specific benefits under the terms of such plan.

''SEC. 728. PATIENT'S RIGHT TO PRESCRIPTION DRUGS.

''(a) IN GENERAL.—To the extent that a group health plan (other than a fully insured group health plan) provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan shall—

''(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

''(2) in accordance with the applicable quality assurance and utilization review standards of the plan, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate.

''(b) RIGHT TO EXTERNAL REVIEW.—Pursuant to the requirements of section 503B, a participant or beneficiary shall have the right to an independent external review if the denial of an item or service or condition that is required to be covered under this section is eligible for such review.

"SEC. 729. SELF-PAYMENT FOR BEHAVIORAL HEALTH CARE SERVICES.

''(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) may not—

''(1) prohibit or otherwise discourage a participant or beneficiary from self-paying for behavioral health care services once the plan has denied coverage for such services; or

''(2) terminate a health care provider because such provider permits participants or beneficiaries to self-pay for behavioral health care services—

''(A) that are not otherwise covered under the plan; or

''(B) for which the group health plan provides limited coverage, to the extent that the group health plan denies coverage of the services.

''(b) RULE OF CONSTRUCTION.—Nothing in subsection (a)(2)(B) shall be construed as prohibiting a group health plan from terminating a contract with a health care provider for failure to meet applicable quality standards or for fraud.

"SEC. 730. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.

''(a) COVERAGE.—

''(1) IN GENERAL.—If a group health plan (other than a fully insured group health plan) provides coverage to a qualified individual (as defined in subsection (b)), the plan—

''(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

''(B) subject to subsections (b), (c), and (d) may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

''(C) may not discriminate against the individual on the basis of the participant's or beneficiaries participation in such trial.

''(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

''(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

''(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term 'qualified individual' means an individual who is a participant or beneficiary in a group health plan and who meets the following conditions:

''(1)(A) The individual has been diagnosed with cancer for which no standard treatment is effective.

''(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

''(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

''(2) Either—

''(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

''(B) the participant or beneficiary provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

''(c) PAYMENT.—

''(1) IN GENERAL.—Under this section a group health plan (other than a fully insured group health plan) shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial.

''(2) STANDARDS FOR DETERMINING ROUTINE PATIENT COSTS ASSOCIATED WITH CLINICAL TRIAL PARTICIPATION.—

''(A) IN GENERAL.—The Secretary shall, in accordance with this paragraph, establish standards relating to the coverage of routine patient costs for individuals participating in clinical trials that group health plans must meet under this section.

''(B) FACTORS.—In establishing routine patient cost standards under subparagraph (A), the Secretary shall consult with interested parties and take into account —

''(i) quality of patient care;

''(ii) routine patient care costs versus costs associated with the conduct of clinical trials, including unanticipated patient care costs as a result of participation in clinical trials; and

''(iii) previous and on-going studies relating to patient care costs associated with participation in clinical trials.

''(C) APPOINTMENT AND MEETINGS OF NEGOTIATED RULEMAKING COMMITTEE.—

''(i) PUBLICATION OF NOTICE.—Not later than November 15, 2000, the Secretary shall publish notice of the establishment of a negotiated rulemaking committee, as provided for under section 564(a) of title 5, United States Code, to develop the standards described in subparagraph (A), which shall include—

''(I) the proposed scope of the committee;

''(II) the interests that may be impacted by the standards;

''(iii) a list of the proposed membership of the committee;

''(iv) the proposed meeting schedule of the committee;

''(v) a solicitation for public comment on the committee; and

''(vi) the procedures under which an individual may apply for membership on the committee.

''(ii) COMMENT PERIOD.—Notwithstanding section 564(c) of title 5, United States Code, the Secretary shall provide for a period, beginning on the date on which the notice is published under clause (i) and ending on November 30, 2000, for the submission of public comments on the committee under this subparagraph.

''(iii) APPOINTMENT OF COMMITTEE.—Not later than December 30, 2000, the Secretary shall appoint the members of the negotiated rulemaking committee under this subparagraph.

''(iv) FACILITATOR.—Not later than January 10, 2001, the negotiated rulemaking committee shall nominate a facilitator under section 566(c) of title 5, United States Code, to carry out the activities described in subsection (d) of such section.

''(v) MEETINGS.—During the period beginning on the date on which the facilitator is nominated under clause (iv) and ending on March 30, 2001, the negotiated rulemaking committee shall meet to develop the standards described in subparagraph (A).

''(D) PRELIMINARY COMMITTEE REPORT.—

''(i) IN GENERAL.—The negotiated rulemaking committee appointed under subparagraph (C) shall report to the Secretary, by not later than March 30, 2001, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceedings and whether such consensus is likely to occur before the target date described in subsection (F).

''(ii) TERMINATION OF PROCESS AND PUBLICATION OF RULE BY SECRETARY.—If the committee reports under clause (i) that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date described in subsection (F), the Secretary shall terminate such process and provide for the publication in the Federal Register, by not later than June 30, 2001, of a rule under this paragraph through such other methods as the Secretary may provide.

''(E) FINAL COMMITTEE REPORT AND PUBLICATION OR RULE BY SECRETARY.—

''(i) IN GENERAL.—If the rulemaking committee is not terminated under subparagraph (D)(ii), the committee shall submit to the Secretary, by not later than May 30, 2001, a report containing a proposed rule.

''(ii) PUBLICATION OF RULE.—If the Secretary receives a report under clause (i), the Secretary shall provide for the publication in the Federal Register, by not later than June 30, 2001, of the proposed rule.

''(F) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under subparagraph (C)(i), and for purposes of this paragraph, the 'target date for publication' (referred to in section 564(a)(5) of title 5, United States Code) shall be June 30, 2001.

''(G) EFFECTIVE DATE.—The provisions of this paragraph shall apply to group health plans (other than a fully insured group health plan) for plan years beginning on or after January 1, 2002.

''(3) PAYMENT RATE.—In the case of covered items and services provided by—

''(A) a participating provider, the payment rate shall be at the agreed upon rate, or

''(B) a nonparticipating provider, the payment rate shall be at the rate the plan would normally pay for comparable services under subparagraph (A).

''(d) APPROVED CLINICAL TRIAL DEFINED.—

''(1) IN GENERAL.—In this section, the term 'approved clinical trial' means a cancer clinical research study or cancer clinical investigation approved or funded (which may include funding through in-kind contributions) by one or more of the following:

''(A) The National Institutes of Health.

''(B) A cooperative group or center of the National Institutes of Health.

''(C) The Food and Drug Administration.

''(D) Either of the following if the conditions described in paragraph (2) are met:

''(i) The Department of Veterans Affairs.

''(ii) The Department of Defense.

''(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

''(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

''(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

''(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's coverage with respect to clinical trials.

''(f) PLAN SATISFACTION OF CERTAIN REQUIREMENTS; RESPONSIBILITIES OF FIDUCIARIES.—

''(1) IN GENERAL.—For purposes of this section, insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the requirements of this section with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer.

''(2) CONSTRUCTION.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(g) STUDY AND REPORT.—

''(1) STUDY.—The Secretary shall study the impact on group health plans for covering routine patient care costs for individuals who are entitled to benefits under this section and who are enrolled in an approved cancer clinical trial program.

''(2) REPORT TO CONGRESS.—Not later than January 1, 2005, the Secretary shall submit a report to Congress that contains an assessment of—

''(A) any incremental cost to group health plans resulting from the provisions of this section;

''(B) a projection of expenditures to such plans resulting from this section; and

''(C) any impact on premiums resulting from this section.

''(h) RIGHT TO EXTERNAL REVIEW.—Pursuant to the requirements of section 503B, a participant or beneficiary shall have the right to an independent external review if the denial of an item or service or condition that is required to be covered under this section is eligible for such review.

''SEC. 730A. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

''(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

''(b) CONSTRUCTION.—Subsection (a) shall not be construed—

''(1) as requiring the coverage under a group health plan of a particular benefit or service or to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's participants or beneficiaries or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan;

''(2) to override any State licensure or scope-of-practice law; or

''(3) as requiring a plan that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan.

''SEC. 730B. GENERALLY APPLICABLE PROVISION.

''In the case of a group health plan that provides benefits under 2 or more coverage options, the requirements of this subpart shall apply separately with respect to each coverage option.''.

(b) RULE WITH RESPECT TO CERTAIN PLANS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, health insurance issuers may offer, and eligible individuals may purchase, high deductible health plans described in section 220(c)(2)(A) of the Internal Revenue Code of 1986. Effective for the 5-year period beginning on the date of the enactment of this Act, such health plans shall not be required to provide payment for any health care items or services that are exempt from the plan's deductible.

(2) EXISTING STATE LAWS.—A State law relating to payment for health care items and services in effect on the date of enactment of this Act that is preempted under paragraph (1), shall not apply to high deductible health plans after the expiration of the 5-year period described in such paragraph unless the State reenacts such law after such period.

(c) DEFINITION.—Section 733(a) of the Employee Retirement Income Security Act of 1974 (42 U.S.C. 1191(a)) is amended by adding at the end the following:

''(3) FULLY INSURED GROUP HEALTH PLAN.—The term 'fully insured group health plan' means a group health plan where benefits under the plan are provided pursuant to the terms of an arrangement between a group health plan and a health insurance issuer and are guaranteed by the health insurance issuer under a contract or policy of insurance.''.

(d) CONFORMING AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended—

(1) in the item relating to subpart C of part 7 of subtitle B of title I, by striking ''Subpart C'' and inserting ''Subpart D''; and

(2) by adding at the end of the items relating to subpart B of part 7 of subtitle B of title I, the following:

''SUBPART C—PATIENT RIGHT TO MEDICAL ADVICE AND CARE

''Sec. 721. Access to emergency medical care.

''Sec. 722. Offering of choice of coverage options.

''Sec. 723. Patient access to obstetric and gynecological care.

''Sec. 724. Access to pediatric care.

''Sec. 725. Timely access to specialists.

''Sec. 726. Continuity of care.

''Sec. 727. Protection of patient-provider communications.

''Sec. 728. Patient's right to prescription drugs.

''Sec. 729. Self-payment for behavioral health care services.

''Sec. 730. Coverage for individuals participating in approved cancer clinical trials.

''Sec. 730A. Prohibition of discrimination against providers based on licensure.

''Sec. 730B. Generally applicable provision.''.

SEC. 2202. CONFORMING AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patient's bill of rights.'';

and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan (other than a fully insured group health plan) shall comply with the requirements of subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as added by section 2201 of the Patients' Bill of Rights Plus Act, and such requirements shall be deemed to be incorporated into this section.''.

SEC. 2203. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan has sought to comply in good faith with such requirement.

Subtitle B—Right to Information About Plans and Providers

SEC. 2211. INFORMATION ABOUT PLANS.

(a) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. HEALTH PLAN INFORMATION.

''(a) REQUIREMENT—

''(1) DISCLOSURE.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with group health insurance coverage, shall provide for the disclosure of the information described in subsection (b) to participants and beneficiaries—

''(i) at the time of the initial enrollment of the participant or beneficiary under the plan or coverage;

''(ii) on an annual basis after enrollment—

''(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

''(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

''(iii) in the case of any material reduction to the benefits or information described in paragraphs (1), (2) and (3) of subsection (b), in the form of a summary notice provided not later than the date on which the reduction takes effect.

''(B) PARTICIPANTS AND BENEFICIARIES.—The disclosure required under subparagraph (A) shall be provided—

''(i) jointly to each participant and beneficiary who reside at the same address; or

''(ii) in the case of a beneficiary who does not reside at the same address as the participant, separately to the participant and such beneficiary.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a group health plan sponsor and health insurance issuer from entering into an agreement under which either the plan sponsor or the issuer agrees to assume responsibility for compliance with the requirements of this section, in whole or in part, and the party delegating such responsibility is released from liability for compliance with the requirements that are assumed by the other party, to the extent the party delegating such responsibility did not cause such noncompliance.

''(3) PROVISION OF INFORMATION.—Information shall be provided to participants and beneficiaries under this section at the last known address maintained by the plan or issuer with respect to such participants or beneficiaries, to the extent that such information is provided to participants or beneficiaries via the United States Postal Service or other private delivery service.

''(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

''(1) BENEFITS.—A description of the covered benefits, including—

''(A) any in- and out-of-network benefits;

''(B) specific preventative services covered under the plan or coverage if such services are covered;

''(C) any benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

''(D) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

''(2) COST SHARING.—A description of any cost-sharing requirements, including—

''(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing above any reasonable and customary charges, for which the participant or beneficiary will be responsible under each option available under the plan;

''(B) any maximum out-of-pocket expense for which the participant or beneficiary may be liable;

''(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

''(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

''(3) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

''(4) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

''(5) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants and beneficiaries in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 724 for a participant or beneficiary who is a child if such section applies.

''(6) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

''(7) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

''(8) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants and beneficiaries in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including the right to timely coverage for access to specialists care under section 725 if such section applies.

''(9) CLINICAL TRIALS.—A description the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved cancer clinical trials under section 729 if such section applies.

''(10) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants and beneficiaries in obtaining access to access to prescription drugs under section 727 if such section applies.

''(11) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant or beneficiary to obtain emergency services under the prudent layperson standard under section 721, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

''(12) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights of participants and beneficiaries under sections 503, 503A and 503B in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502.

''(13) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

''(14) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants and beneficiaries seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. The name of the designated decision-maker (or decision-makers) appointed under section 502(n)(2) for purposes of making final determinations under section 503A and approving coverage pursuant to the written determination of an independent medical reviewer under section 503B. Notice of whether the benefits under the plan are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

''(15) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants and beneficiaries with communication disabilities and a description of how to access these items or services.

''(16) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants and beneficiaries.

''(17) NOTICE OF REQUIREMENTS.—A description of any rights of participants and beneficiaries that are established by the Patients' Bill of Rights Plus Act (excluding those described in paragraphs (1) through (16)) if such sections apply. The description required under this paragraph may be combined with the notices required under sections 711(d), 713(b), or 606(a)(1), and with any other notice provision that the Secretary determines may be combined.

''(18) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

''(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant or beneficiary shall include for each option available under a group health plan or health insurance coverage the following:

''(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

''(2) COMPENSATION METHODS.—A summary description of the methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating participating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage. The requirement of this paragraph shall not be construed as requiring plans or issuers to provide information concerning proprietary payment methodology.

''(3) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

''(4) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) determined for the plan or issuer's book of business.

''(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by the average participant.

''(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with group health insurance coverage, from—

''(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants and beneficiaries in the selection of a health plan; and

''(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as participants and beneficiaries are provided with an opportunity to request that informational materials be provided in printed form.

''(f) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under part 1, to reduce duplication with respect to any information that is required to be provided under any such requirements.

''(g) SECRETARIAL ENFORCEMENT AUTHORITY.—

''(1) IN GENERAL.—The Secretary may assess a civil monetary penalty against the administrator of a plan or issuer in connection with the failure of the plan or issuer to comply with the requirements of this section.

''(2) AMOUNT OF PENALTY.—

''(A) IN GENERAL.—The amount of the penalty to be imposed under paragraph (1) shall not exceed $100 for each day for each participant and beneficiary with respect to which the failure to comply with the requirements of this section occurs.

''(B) INCREASE IN AMOUNT.—The amount referred to in subparagraph (A) shall be increased or decreased, for each calendar year that ends after December 31, 2000, by the same percentage as the percentage by which the medical care expenditure category of the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2000.

''(3) FAILURE DEFINED.—For purposes of this subsection, a plan or issuer shall have failed to comply with the requirements of this section with respect to a participant or beneficiary if the plan or issuer failed or refused to comply with the requirements of this section within 30 days—

''(A) of the date described in subsection (a)(1)(A)(i);

''(B) of the date described in subsection (a)(1)(A)(ii); or

''(C) of the date on which additional information was requested under subsection (c).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713, the following:

''Sec 714. Health plan comparative information.''.

(3) Section 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by striking ''733(a)(1))'' and inserting ''733(a)(1)), except with respect to the requirements of section 714''.

SEC. 2212. INFORMATION ABOUT PROVIDERS.

(a) STUDY.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study, and the submission to the Secretary of a report, that includes—

(1) an analysis of information concerning health care professionals that is currently available to patients, consumers, States, and professional societies, nationally and on a State-by-State basis, including patient preferences with respect to information about such professionals and their competencies;

(2) an evaluation of the legal and other barriers to the sharing of information concerning health care professionals; and

(3) recommendations for the disclosure of information on health care professionals, including the competencies and professional qualifications of such practitioners, to better facilitate patient choice, quality improvement, and market competition.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall forward to the appropriate committees of Congress a copy

of the report and study conducted under subsection (a).

Subtitle C—Right to Hold Health Plans Accountable

SEC. 2221. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 503 (29 U.S.C. 1133) the following:

"SEC. 503A. CLAIMS AND INTERNAL APPEALS PROCEDURES FOR GROUP HEALTH PLANS.

''(a) INITIAL CLAIM FOR BENEFITS UNDER GROUP HEALTH PLANS.—

''(1) PROCEDURES.—

''(A) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall ensure that procedures are in place for—

''(i) making a determination on an initial claim for benefits by a participant or beneficiary (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant or beneficiary is required to pay with respect to such claim for benefits; and

''(ii) notifying a participant or beneficiary (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant or beneficiary may be required to make with respect to such claim for benefits, and of the right of the participant or beneficiary to an internal appeal under subsection (b).

''(B) ACCESS TO INFORMATION.—With respect to an initial claim for benefits, the participant or beneficiary (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information necessary to make a determination relating to the claim, not later than 5 business days after the date on which the claim is filed or to meet the applicable timelines under clauses (ii) and (iii) of paragraph (2)(A).

''(C) ORAL REQUESTS.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant or beneficiary (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, may require that the participant or beneficiary (or authorized representative) provide written confirmation of such request in a timely manner.

''(2) TIMELINE FOR MAKING DETERMINATIONS.—

''(A) PRIOR AUTHORIZATION DETERMINATION.—

''(i) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a prior authorization determination on a claim for benefits is made within 14 business days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization, but in no case shall such determination be made later than 28 business days after the receipt of the claim for benefits.

''(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures for expediting a prior authorization determination on a claim for benefits described in such clause when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination and the treating health care professional substantiates, with the request, that a determination under the procedures described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made within 72 hours after a request is received by the plan or issuer under this clause.

''(iii) CONCURRENT DETERMINATIONS.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a concurrent determination on a claim for benefits that results in a discontinuation of inpatient care is made within 24 hours after the receipt of the claim for benefits.

''(B) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a retrospective determination on a claim for benefits is made within 30 business days of the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, but in no case shall such determination be made later than 60 business days after the receipt of the claim for benefits.

''(3) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant or beneficiary (or authorized representative) and the treating health care professional not later than 2 business days after the determination (or within the 72-hour or 24-hour period referred to in clauses (ii) and (iii) of paragraph (2)(A) if applicable).

''(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under paragraph (3) shall include—

''(A) the reasons for the determination (including a summary of the clinical or scientific-evidence based rationale used in making the determination and instruction on obtaining a more complete description written in a manner calculated to be understood by the average participant);

''(B) the procedures for obtaining additional information concerning the determination; and

''(C) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with subsection (b).

''(b) INTERNAL APPEAL OF A DENIAL OF A CLAIM FOR BENEFITS.—

''(1) RIGHT TO INTERNAL APPEAL.—

''(A) IN GENERAL.—A participant or beneficiary (or authorized representative) may appeal any denial of a claim for benefits under subsection (a) under the procedures described in this subsection.

''(B) TIME FOR APPEAL.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall ensure that a participant or beneficiary (or authorized representative) has a period of not less than 60 days beginning on the date of a denial of a claim for benefits under subsection (a) in which to appeal such denial under this subsection.

''(C) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under subsection (a) within the applicable timeline established for such a determination under such subsection shall be treated as a denial of a claim for benefits for purposes of proceeding to internal review under this subsection.

''(D) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, may waive the internal review process under this subsection and permit a participant or beneficiary (or authorized representative) to proceed directly to external review under section 503B.

''(2) TIMELINES FOR MAKING DETERMINATIONS.—

''(A) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this subsection that involves an expedited or concurrent determination, a participant or beneficiary (or authorized representative) may request such appeal orally, but a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, may require that the participant or beneficiary (or authorized representative) provide written confirmation of such request in a timely manner.

''(B) ACCESS TO INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant or beneficiary (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information necessary to make a determination relating to the appeal, not later than 5 business days after the date on which the request for the appeal is filed or to meet the applicable timelines under clauses (ii) and (iii) of subparagraph (C).

''(C) PRIOR AUTHORIZATION DETERMINATIONS.—

''(i) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a determination on an appeal of a denial of a claim for benefits under this subsection is made within 14 business days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal, but in no case shall such determination be made later than 28 business days after the receipt of the request for the appeal.

''(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures for expediting a prior authorization determination on an appeal of a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination and the treating health care professional substantiates, with the request, that a determination under the procedures described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made not later than 72 hours after the request for such appeal is received by the plan or issuer under this clause.

''(iii) CONCURRENT DETERMINATIONS.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a concurrent determination on an appeal of a denial of a claim for benefits that results in a discontinuation of inpatient care is made within 24 hours after the receipt of the request for appeal.

''(B) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a retrospective determination on an appeal of a claim for benefits is made within 30 business days of the date on which the plan or issuer receives necessary information that is reasonably required by the plan or issuer to make a determination on the appeal, but in no case shall such determination be made later than 60 business days after the receipt of the request for the appeal.

''(3) CONDUCT OF REVIEW.—

''(A) IN GENERAL.—A review of a denial of a claim for benefits under this subsection shall be conducted by an individual with appropriate expertise who was not directly involved in the initial determination.

''(B) REVIEW OF MEDICAL DECISIONS BY PHYSICIANS.—A review of an appeal of a denial of a

claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts, shall be made by a physician with appropriate expertise, including age-appropriate expertise, who was not involved in the initial determination.

''(4) NOTICE OF DETERMINATION.—

''(A) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant or beneficiary (or authorized representative) and the treating health care professional not later than 2 business days after the completion of the review (or within the 72-hour or 24-hour period referred to in paragraph (2) if applicable).

''(B) FINAL DETERMINATION.—The decision by a plan or issuer under this subsection shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this subsection within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 503B.

''(C) REQUIREMENTS OF NOTICE.—With respect to a determination made under this subsection, the notice described in subparagraph (A) shall include—

''(i) the reasons for the determination (including a summary of the clinical or scientific-evidence based rationale used in making the determination and instruction on obtaining a more complete description written in a manner calculated to be understood by the average participant);

''(ii) the procedures for obtaining additional information concerning the determination; and

''(iii) notification of the right to an independent external review under section 503B and instructions on how to initiate such a review.

''(c) DEFINITIONS.—The definitions contained in section 503B(i) shall apply for purposes of this section.

''SEC. 503B. INDEPENDENT EXTERNAL APPEALS PROCEDURES FOR GROUP HEALTH PLANS.

''(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide in accordance with this section participants and beneficiaries (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

''(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

''(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 60 business days after the date on which the participant or beneficiary receives notice of the denial under section 503A(b)(4) or the date on which the internal review is waived by the plan or issuer under section 503A(b)(1)(D).

''(2) FILING OF REQUEST.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may—

''(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

''(ii) limit the filing of such a request to the participant or beneficiary involved (or an authorized representative);

''(iii) except if waived by the plan or issuer under section 503A(b)(1)(D), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 503A;

''(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $50; and

''(v) require that a request for review include the consent of the participant or beneficiary (or authorized representative) for the release of medical information or records of the participant or beneficiary to the qualified external review entity for purposes of conducting external review activities.

''(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

''(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request may be made orally. In such case a written confirmation of such request shall be made in a timely manner. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v).

''(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

''(I) INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the Secretary) that the participant or beneficiary is indigent (as defined in such guidelines). In establishing guidelines under this subclause, the Secretary shall ensure that the guidelines relating to indigency are consistent with the poverty guidelines used by the Secretary of Health and Human Services under title XIX of the Social Security Act.

''(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 503A(b)(1)(D).

''(III) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse the denial which is the subject of the review.

''(IV) INCREASE IN AMOUNT.—The amount referred to in subclause (I) shall be increased or decreased, for each calendar year that ends after December 31, 2001, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2001.

''(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—

''(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering coverage in connection with a group health plan, the plan or issuer shall refer such request to a qualified external review entity selected in accordance with this section.

''(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted under this section, the participant or beneficiary (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with access to information that is necessary to conduct a review under this section, as determined by the entity, not later than 5 business days after the date on which a request is referred to the qualified external review entity under paragraph (1), or earlier as determined appropriate by the entity to meet the applicable timelines under clauses (ii) and (iii) of subsection (e)(1)(A).

''(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

''(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

''(i) any of the conditions described in subsection (b)(2)(A) have not been met;

''(ii) the thresholds described in subparagraph (B) have not been met;

''(iii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

''(iv) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant or beneficiary who is enrolled under the terms of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

''(v) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2)(C);

Upon making a determination that any of clauses (i) through (v) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (D).

''(B) THRESHOLDS.—

''(i) IN GENERAL.—The thresholds described in this subparagraph are that—

''(I) the total amount payable under the plan or coverage for the item or service that was the subject of such denial exceeds a significant financial threshold (as determined under guidelines established by the Secretary); or

''(II) a physician has asserted in writing that there is a significant risk of placing the life, health, or development of the participant or beneficiary in jeopardy if the denial of the claim for benefits is sustained.

''(ii) THRESHOLDS NOT APPLIED.—The thresholds described in this subparagraph shall not apply if the plan or issuer involved waives the internal appeals process with respect to the denial of a claim for benefits involved under section 503A(b)(1)(D).

''(C) PROCESS FOR MAKING DETERMINATIONS.—

''(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer under section 503A or the recommendation of a treating health care professional (if any).

''(ii) USE OF APPROPRIATE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

''(D) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

''(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant or beneficiary (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

''(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by an average participant;

''(II) shall include the reasons for the determination; and

''(III) include any relevant terms and conditions of the plan or coverage.

''(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant or beneficiary (or authorized representative) within 2 business days of such determination.

''(d) INDEPENDENT MEDICAL REVIEW.—

''(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

''(2) MEDICALLY REVIEWABLE DECISIONS.—A denial described in this paragraph is one for which the item or service that is the subject of the denial would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

''(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—The basis of the determination is that the item or service is not medically necessary and appropriate.

''(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—The basis of the determination is that the item or service is experimental or investigational.

''(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered but an evaluation of the medical facts by a health care professional in the specific case involved is necessary to determine whether the item or service or condition is required to be provided under the terms and conditions of the plan or coverage.

''(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

''(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to—

''(i) whether the item or service or condition that is the subject of the denial is covered under the terms and conditions of the plan or coverage; and

''(ii) based upon an affirmative determination under clause (i), whether or not the denial of a claim for a benefit that is the subject of the review should be upheld or reversed.

''(B) STANDARD FOR DETERMINATION.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigation nature, or the evaluation of the medical facts of the item, service, or condition shall be based on the medical condition of the participant or beneficiary (including the medical records of the participant or beneficiary) and the valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert consensus.

''(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage and that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.

''(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

''(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence or guidelines used by the plan or issuer in reaching such determination.

''(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

''(iii) Additional evidence or information obtained by the reviewer or submitted by the plan, issuer, participant or beneficiary (or an authorized representative), or treating health care professional.

''(iv) The plan or coverage document.

''(E) INDEPENDENT DETERMINATION.—In making the determination, the independent medical reviewer shall—

''(i) consider the claim under review without deference to the determinations made by the plan or issuer under section 503A or the recommendation of the treating health care professional (if any);

''(ii) consider, but not be bound by the definition used by the plan or issuer of 'medically necessary and appropriate', or 'experimental or investigational', or other equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment; and

''(iii) notwithstanding clause (ii), adhere to the definition used by the plan or issuer of 'medically necessary and appropriate', or 'experimental or investigational' if such definition is the same as the definition of such term—

''(I) that has been adopted pursuant to a State statute or regulation; or

''(II) that is used for purposes of the program established under titles XVIII or XIX of the Social Security Act or under chapter 89 of title 5, United States Code.

''(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold or reverse the denial under review. Such written determination shall include the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific-evidence based rationale used in making the determination. The reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not be treated as part of the determination.

''(e) TIMELINES AND NOTIFICATIONS.—

''(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

''(A) PRIOR AUTHORIZATION DETERMINATION.—

''(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) not later than 14 business days after the receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services.

''(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination, and the treating health care professional substantiates, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made not later than 72 hours after the receipt of information under subsection (c)(2).

''(iii) CONCURRENT DETERMINATION.—Notwithstanding clause (i), a review described in such subclause shall be completed not later than 24 hours after the receipt of information under subsection (c)(2) if the review involves a discontinuation of inpatient care.

''(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) not later than 30 business days after the receipt of information under subsection (c)(2).

''(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant or beneficiary (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

''(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by an average participant.

''(4) TERMINATION OF EXTERNAL REVIEW PROCESS IF APPROVAL OF A CLAIM FOR BENEFITS DURING PROCESS.—

''(A) IN GENERAL.—If a plan or issuer—

''(i) reverses a determination on a denial of a claim for benefits that is the subject of an external review under this section and authorizes coverage for the claim or provides payment of the claim; and

''(ii) provides notice of such reversal to the participant or beneficiary (or authorized representative) and the treating health care professional (if any), and the external review entity responsible for such review,

the external review process shall be terminated with respect to such denial and any filing fee paid under subsection (b)(2)(A)(iv) shall be refunded.

''(B) TREATMENT OF TERMINATION.—An authorization of coverage under subparagraph (A) by the plan or issuer shall be treated as a written determination to reverse a denial under section (d)(3)(F) for purposes of liability under section 502(n)(1)(B).

''(f) COMPLIANCE.—

''(1) APPLICATION OF DETERMINATIONS.—

''(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

''(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

''(2) FAILURE TO COMPLY.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B)(i) with respect to a participant or beneficiary, where such failure to comply is caused by the plan or issuer, the participant or beneficiary may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

''(3) REIMBURSEMENT.—

''(A) IN GENERAL.—Where a participant or beneficiary obtains items or services in accordance with paragraph (2), the plan or issuer involved shall provide for reimbursement of the costs of such items of services. Such reimbursement shall be made to the treating health care professional or to the participant or beneficiary (in the case of a participant or beneficiary who pays for the costs of such items or services).

''(B) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant or beneficiary under subparagraph (A) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items of services) so long as—

''(i) the items or services would have been covered under the terms of the plan or coverage if provided by the plan or issuer; and

''(ii) the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

''(4) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant or beneficiary in accordance with this subsection, the professional, participant or beneficiary may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is unpaid and any necessary legal costs or expenses (including attorneys' fees) incurred in recovering such reimbursement.

''(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

''(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

''(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

''(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

''(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

''(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician or health care professional who—

''(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

''(B) typically treats the diagnosis or condition or provides the type or treatment under review.

''(3) INDEPENDENCE.—

''(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

''(i) not be a related party (as defined in paragraph (7));

''(ii) not have a material familial, financial, or professional relationship with such a party; and

''(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

''(B) EXCEPTION.—Nothing in this subparagraph (A) shall be construed to—

''(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

''(I) a non-affiliated individual is not reasonably available;

''(II) the affiliated individual is not involved in the provision of items or services in the case under review; and

''(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant or beneficiary (or authorized representative) and neither party objects;

''(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer if the affiliation is disclosed to the plan or issuer and the participant or beneficiary (or authorized representative), and neither party objects;

''(iii) permit an employee of a plan or issuer, or an individual who provides services exclusively or primarily to or on behalf of a plan or issuer, from serving as an independent medical reviewer; or

''(iv) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

''(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

''(A) IN GENERAL.—The requirement of this paragraph with respect to a reviewer in a case involving treatment, or the provision of items or services, by—

''(i) a physician, is that the reviewer be a practicing physician of the same or similar specialty, when reasonably available, as a physician who typically treats the diagnosis or condition or provides such treatment in the case under review; or

''(ii) a health care professional (other than a physician), is that the reviewer be a practicing physician or, if determined appropriate by the qualified external review entity, a health care professional (other than a physician), of the same or similar specialty as the health care professional who typically treats the diagnosis or condition or provides the treatment in the case under review.

''(B) PRACTICING DEFINED.—For purposes of this paragraph, the term 'practicing' means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 1 day per week.

''(5) AGE-APPROPRIATE EXPERTISE.—The independent medical reviewer shall have expertise under paragraph (2) that is age-appropriate to the participant or beneficiary involved.

''(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

''(A) not exceed a reasonable level; and

''(B) not be contingent on the decision rendered by the reviewer.

''(7) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a denial of a claim under a plan or coverage relating to a participant or beneficiary, any of the following:

''(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

''(B) The participant or beneficiary (or authorized representative).

''(C) The health care professional that provides the items of services involved in the denial.

''(D) The institution at which the items or services (or treatment) involved in the denial are provided.

''(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

''(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

''(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

''(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

''(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The Secretary shall implement procedures with respect to the selection of qualified external review entities by a plan or issuer to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner.

''(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in connection with a group health plan in a State, the State may, pursuant to a State law that is enacted after the date of enactment of the Patients' Bill of Rights Plus Act, provide for the designation or selection of qualified external review entities in a manner determined by the State to assure an unbiased determination in conducting external review activities. In conducting reviews under this section, an entity designated or selected under this subparagraph shall comply with the provision of this section.

''(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

''(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

''(A) be consistent with the standards the Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

''(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant or beneficiary (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

''(4) QUALIFICATIONS.—

''(A) IN GENERAL.—In this section, the term 'qualified external review entity' means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

''(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

''(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

''(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

''(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

''(v) The entity meets such other requirements as the Secretary provides by regulation.

''(B) INDEPENDENCE REQUIREMENTS.—

''(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

''(I) is not a related party (as defined in subsection (g)(7));

''(II) does not have a material familial, financial, or professional relationship with such a party; and

''(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

''(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

''(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

''(I) not exceed a reasonable level; and

''(II) not be contingent on the decision rendered by the entity or by any independent medical reviewer.

''(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

''(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

''(I) under a process that is recognized or approved by the Secretary; or

''(II) by a qualified private standard-setting organization that is approved by the Secretary under clause (iii).

''(ii) PROCESS.—The Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

''(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

''(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

''(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

''(IV) in the case recertification, shall review the matters described in clause (iv).

''(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the Secretary may approve a qualified private standard-setting organization if the Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

''(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

''(I) Provision of information under subparagraph (D).

''(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

''(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

''(IV) Compliance with applicable independence requirements.

''(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 5 years.

''(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the Secretary or by the organization providing such certification upon a showing of cause.

''(D) PROVISION OF INFORMATION.—

''(i) IN GENERAL.—A qualified external review entity shall provide to the Secretary, in such manner and at such times as the Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as the Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

''(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

''(I) The number and types of denials for which a request for review has been received by the entity.

''(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

''(III) The length of time in making determinations with respect to such denials.

''(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

''(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

''(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the Secretary under clause (i).

''(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

''(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

''(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

''(i) DEFINITIONS.—In this section:

''(1) AUTHORIZED REPRESENTATIVE.—The term 'authorized representative' means, with respect to a participant or beneficiary—

''(A) a person to whom a participant or beneficiary has given express written consent to represent the participant or beneficiary in any proceeding under this section;

''(B) a person authorized by law to provide substituted consent for the participant or beneficiary; or

''(C) a family member of the participant or beneficiary (or the estate of the participant or beneficiary) or the participant's or beneficiary's treating health care professional when the participant or beneficiary is unable to provide consent.

''(2) CLAIM FOR BENEFITS.—The term 'claim for benefits' means any request by a participant or beneficiary (or authorized representative) for benefits (including requests that are subject to authorization of coverage or utilization review), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage offered by a health insurance issuer in connection with a group health plan.

''(3) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given such term in section 733(a). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(5) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2).

''(6) PRIOR AUTHORIZATION DETERMINATION.—The term 'prior authorization determination' means a determination by the group health plan or health insurance issuer offering health insurance coverage in connection with a group health plan prior to the provision of the items and services as a condition of coverage of the items and services under the terms and conditions of the plan or coverage.

''(7) TREATING HEALTH CARE PROFESSIONAL.—The term 'treating health care professional' with respect to a group health plan, health insurance issuer or provider sponsored organization means a physician (medical doctor or doctor of osteopathy) or other health care practitioner who is acting within the scope of his or her State licensure or certification for the delivery of health care services and who is primarily responsible for delivering those services to the participant or beneficiary.

''(8) UTILIZATION REVIEW.—The term 'utilization review' with respect to a group health plan or health insurance coverage means procedures used in the determination of coverage for a participant or beneficiary, such as procedures to evaluate the medical necessity, appropriateness, efficacy, quality, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 503 the following:

''Sec. 503A. Claims and internal appeals procedures for group health plans.

''Sec. 503B. Independent external appeals procedures for group health plans.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after 2 years after the date of enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

SEC. 2222. ENFORCEMENT.

Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by adding at the end the following:

''(8) The Secretary may assess a civil penalty against any plan of up to $10,000 for the plan's failure or refusal to comply with any deadline applicable under section 503B or any determination under such section, except that in any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant or beneficiary involved.''.

Subtitle D—Remedies

SEC. 2231. AVAILABILITY OF COURT REMEDIES.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) CAUSE OF ACTION RELATING TO DENIAL OF A CLAIM FOR HEALTH BENEFITS.—

''(1) IN GENERAL.—

''(A) FAILURE TO COMPLY WITH EXTERNAL MEDICAL REVIEW.—In any case in which—

''(i) a designated decision-maker described in paragraph (2) fails to exercise ordinary care in

approving coverage pursuant to the written determination of an independent medical reviewer under section 503B(d)(3)(F) that reverses a denial of a claim for benefits; and

''(ii) the failure described in clause (i) is the proximate cause of substantial harm to, or the wrongful death of, the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

''(B) WRONGFUL DETERMINATION RESULTING IN DELAY IN PROVIDING BENEFITS.—In any case in which—

''(i) a designated decision-maker described in paragraph (2) acts in bad faith in making a final determination denying a claim for benefits under section 503A(b);

''(ii) the denial described in clause (i) is reversed by an independent medical reviewer under section 503B(d); and

''(iii) the delay attributable to the failure described in clause (i) is the proximate cause of substantial harm to, or the wrongful death of, the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

''(2) DESIGNATED DECISION-MAKERS FOR PURPOSES OF LIABILITY.—An employer or plan sponsor shall not be liable under any cause of action described in paragraph (1) if the employer or plan sponsor complies with the following provisions:

''(A) APPOINTMENT.—A group health plan may designate one or more persons to serve as the designated decision-maker for purposes of paragraph (1). Such designated decision-makers shall have the exclusive authority under the group health plan (or under the health insurance coverage in the case of a health insurance issuer offering coverage in connection with a group health plan) to make determinations described in section 503A with respect to claims for benefits and determination to approve coverage pursuant to written determination of independent medical reviewers under section 503B, except that the plan documents may expressly provide that the designated decision-maker is subject to the direction of a named fiduciary.

''(B) PROCEDURES.—A designated decision-maker shall—

''(i) be a person who is named in the plan or coverage documents, or who, pursuant to procedures specified in the plan or coverage documents, is identified as the designated decision-maker by—

''(I) a person who is an employer or employee organization with respect to the plan or issuer;

''(II) a person who is such an employer and such an employee organization acting jointly; or

''(III) a person who is a named fiduciary;

''(ii) agree to accept appointment as a designated decision-maker; and

''(iii) be identified in the plan or coverage documents as required under section 714(b)(14).

''(C) QUALIFICATIONS.—To be appointed as a designated decision-maker under this paragraph, a person shall be—

''(i) a plan sponsor;

''(ii) a group health plan;

''(iii) a health insurance issuer; or

''(iv) any other person who can provide adequate evidence, in accordance with regulations promulgated by the Secretary, of the ability of the person to—

''(I) carry out the responsibilities set forth in the plan or coverage documents;

''(II) carry out the applicable requirements of this subsection; and

''(III) meet other applicable requirements under this Act, including any financial obligation for liability under this subsection.

''(D) FLEXIBILITY IN ADMINISTRATION.—A group health plan, or health insurance issuer offering coverage in connection with a group health plan, may provide—

''(i) that any person or group of persons may serve in more than one capacity with respect to the plan or coverage (including service as a designated decision-maker, administrator, and named fiduciary); or

''(ii) that a designated decision-maker may employ one or more persons to provide advice with respect to any responsibility of such decision-maker under the plan or coverage.

''(E) FAILURE TO DESIGNATE.—In any case in which a designated decision-maker is not appointed under this paragraph, the group health plan (or health insurance issuer offering coverage in connection with the group health plan), the administrator, or the party or parties that bears the sole responsibility for making the final determination under section 503A(b) (with respect to an internal review), or for approving coverage pursuant to the written determination of an independent medical reviewer under section 503B, with respect to a denial of a claim for benefits shall be treated as the designated decision-maker for purposes of liability under this section.

''(3) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—Paragraph (1) shall apply only if a final determination denying a claim for benefits under section 503A(b) has been referred for independent medical review under section 503B(d) and a written determination by an independent medical reviewer to reverse such final determination has been issued with respect to such review.

''(4) LIMITATIONS ON RECOVERY OF DAMAGES.—

''(A) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—The aggregate amount of liability for noneconomic loss in an action under paragraph (1) may not exceed $350,000.

''(B) INCREASE IN AMOUNT.—The amount referred to in subparagraph (A) shall be increased or decreased, for each calendar year that ends after December 31, 2001, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2001.

''(C) JOINT AND SEVERAL LIABILITY.—In the case of any action commenced pursuant to paragraph (1), the defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the injury suffered by the participant or beneficiary. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

''(D) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

''(i) IN GENERAL.—In the case of any action commenced pursuant to paragraph (1), the total amount of damages received by a participant or beneficiary under such action shall be reduced, in accordance with clause (ii), by any other payment that has been, or will be, made to such participant or beneficiary to compensate such participant or beneficiary for the injury that was the subject of such action.

''(ii) AMOUNT OF REDUCTION.—The amount by which an award of damages to a participant or beneficiary for an injury shall be reduced under clause (i) shall be—

''(I) the total amount of any payments (other than such award) that have been made or that will be made to such participant or beneficiary to pay costs of or compensate such participant or beneficiary for the injury that was the subject of the action; less

''(II) the amount paid by such participant or beneficiary (or by the spouse, parent, or legal guardian of such participant or beneficiary) to secure the payments described in subclause (I).

''(iii) DETERMINATION OF AMOUNTS FROM COLLATERAL SOURCES.—The reduction required under clause (ii) shall be determined by the court in a pretrial proceeding. At the subsequent trial no evidence shall be admitted as to the amount of any charge, payments, or damage for which a participant or beneficiary—

''(I) has received payment from a collateral source or the obligation for which has been assured by a third party; or

''(II) is, or with reasonable certainty, will be eligible to receive from a collateral source which will, with reasonable certainty, be assumed by a third party.

''(5) AFFIRMATIVE DEFENSES.—In the case of any cause of action under paragraph (1), it shall be an affirmative defense that—

''(A) the group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, involved did not receive from the participant or beneficiary (or authorized representative) or the treating health care professional (if any), sufficient information regarding the medical condition of the participant or beneficiary that was necessary to make a final determination on a claim for benefits under section 503A(b);

''(B) the participant or beneficiary (or authorized representative)—

''(i) was in possession of facts that were sufficient to enable the participant or beneficiary (or authorized representative) to know that an expedited review under section 503A or 503B would have prevented the harm that is the subject of the action; and

''(ii) failed to notify the plan or issuer of the need for such an expedited review; or

''(C) the cause of action is based solely on the failure of a qualified external review entity or an independent medical reviewer to meet the timelines applicable under section 503B.

Nothing in this paragraph shall be construed to limit the application of any other affirmative defense that may be applicable to the cause of action involved.

''(6) WAIVER OF INTERNAL REVIEW.—In the case of any cause of action under paragraph (1), the waiver or nonwaiver of internal review under section 503A(b)(1)(D) by the group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall not be used in determining liability.

''(7) LIMITATIONS ON ACTIONS.—Paragraph (1) shall not apply in connection with any action that is commenced more than 1 year after—

''(A) the date on which the last act occurred which constituted a part of the failure referred to in such paragraph; or

''(B) in the case of an omission, the last date on which the decision-maker could have cured the failure.

''(8) LIMITATION ON RELIEF WHERE DEFENDANT'S POSITION PREVIOUSLY SUPPORTED UPON EXTERNAL REVIEW.—In any case in which the court finds the defendant to be liable in an action under this subsection, to the extent that such liability is based on a finding by the court of a particular failure described in paragraph (1) and such finding is contrary to a previous determination by an independent medical reviewer under section 503B(d) with respect to such defendant, no relief shall be available under this subsection in addition to the relief otherwise available under subsection (a)(1)(B).

''(9) CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing a cause of action under paragraph (1) for—

''(A) the failure of a group health plan or health insurance issuer to provide an item or service that is specifically excluded under the plan or coverage; or

''(B) any denial of a claim for benefits that was not eligible for independent medical review under section 503B(d).

''(10) FEDERAL JURISDICTION.—In the case of any action commenced pursuant to paragraph (1) the district courts of the United States shall have exclusive jurisdiction.

''(11) DEFINITIONS.—In this subsection:

''(A) AUTHORIZED REPRESENTATIVE.—The term 'authorized representative' has the meaning given such term in section 503B(i).

''(B) CLAIM FOR BENEFITS.—The term 'claim for benefits' shall have the meaning given such term in section 503B(i), except that such term shall only include claims for prior authorization determinations (as such term is defined in section 503B(i)).

''(C) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given such term in section 733(a).

''(D) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1).

''(E) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2) (including health maintenance organizations as defined in section 733(b)(3)).

''(F) ORDINARY CARE.—The term 'ordinary care' means the care, skill, prudence, and diligence under the circumstances prevailing at the time the care is provided that a prudent individual acting in a like capacity and familiar with the care being provided would use in providing care of a similar character.

''(G) SUBSTANTIAL HARM.—The term 'substantial harm' means the loss of life, loss or significant impairment of limb or bodily function, significant disfigurement, or severe and chronic physical pain.

''(12) EFFECTIVE DATE.—The provisions of this subsection shall apply to acts and omissions occurring on or after the date of enactment of this subsection.''.

(b) IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsection (a), is further amended by adding at the end the following:

''(o) IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.—

''(1) IN GENERAL.—No liability shall arise under subsection (n) with respect to a participant or beneficiary against a group health plan (other than a fully insured group health plan) if such plan offers the participant or beneficiary the coverage option described in paragraph (2).

''(2) COVERAGE OPTION.—The coverage option described in this paragraph is one under which the group health plan (other than a fully insured group health plan), at the time of enrollment or as provided for in paragraph (3), provides the participant or beneficiary with the option to—

''(A) enroll for coverage under a fully insured health plan; or

''(B) receive an individual benefit payment, in an amount equal to the amount that would be contributed on behalf of the participant or beneficiary by the plan sponsor for enrollment in the group health plan, for use by the participant or beneficiary in obtaining health insurance coverage in the individual market.

''(3) TIME OF OFFERING OF OPTION.—The coverage option described in paragraph (2) shall be offered to a participant or beneficiary—

''(A) during the first period in which the individual is eligible to enroll under the group health plan; or

''(B) during any special enrollment period provided by the group health plan after the date of enactment of the Patients' Bill of Rights Plus Act for purposes of offering such coverage option.''.

(2) AMENDMENTS TO INTERNAL REVENUE CODE.—

(A) EXCLUSION FROM INCOME.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following:

''(d) TREATMENT OF CERTAIN COVERAGE OPTION UNDER SELF-INSURED PLANS.—No amount shall be included in the gross income of an individual by reason of—

''(1) the individual's right to elect a coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, or

''(2) the receipt by the individual of an individual benefit payment described in section 502(o)(2)(A) of such Act.''

(B) NONDISCRIMINATION RULES.—Section 105(h) of such Code (relating to self-insured medical expense reimbursement plans) is amended by adding at the end the following:

''(11) TREATMENT OF CERTAIN COVERAGE OPTIONS.—If a self-insured medical reimbursement plan offers the coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, employees who elect such option shall be treated as eligible to benefit under the plan and the plan shall be treated as benefiting such employees.''

(c) CONFORMING AMENDMENT.—Section 502(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(1)(A)) is amended by inserting ''or (n)'' after ''subsection (c)''.

SEC. 2232. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

(a) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 2231, is further amended by adding at the end the following:

''(p) LIMITATION ON CLASS ACTION LITIGATION.—A claim or cause of action under section 502(n) may not be maintained as a class action.''.

(b) RICO.—Section 1964(c) of title 18, United States Code, is amended—

(1) by inserting ''(1)'' after the subsection designation; and

(2) by adding at the end the following:

''(2) No action may be brought under this subsection, or alleging any violation of section 1962, against any person where the action seeks relief for which a remedy may be provided under section 502 of the Employee Retirement Income Security Act of 1974.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all civil actions that are filed on or after the date of enactment of this Act.

(2) PENDING CIVIL ACTIONS.—Notwithstanding section 502(p) of the Employee Retirement Income Security Act of 1974 and section 1964(c)(2) of title 18, United States Code, such sections 502(p) and 1964(c)(2) shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of this Act if such actions are substantially similar in nature to the claims or causes of actions referred to in such sections 502(p) and 1964(c)(2).

SEC. 2233. SEVERABILITY.

If any provision of this subtitle, an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE XXIII—WOMEN'S HEALTH AND CANCER RIGHTS

SEC. 2301. WOMEN'S HEALTH AND CANCER RIGHTS.

(a) SHORT TITLE.—This section may be cited as the ''Women's Health and Cancer Rights Act of 2000''.

(b) FINDINGS.—Congress finds that—

(1) the offering and operation of health plans affect commerce among the States;

(2) health care providers located in a State serve patients who reside in the State and patients who reside in other States; and

(3) in order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in 1 State as well as health plans operating among the several States.

(c) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by section 2211(a), is further amended by adding at the end the following:

''SEC. 715. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

''(A) a mastectomy;

''(B) a lumpectomy; or

''(C) a lymph node dissection for the treatment of breast cancer.

''(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

''(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a).

''(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 2001;

whichever is earlier.

''(d) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(e) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (d).''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 714 the following new item:

''Sec. 715. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.''.

(d) AMENDMENTS TO PHSA RELATING TO THE GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following new section:

''SEC. 2707. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

''(A) a mastectomy;

''(B) a lumpectomy; or

''(C) a lymph node dissection for the treatment of breast cancer.

''(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

''(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a).

''(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 2001;

whichever is earlier.

''(d) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(e) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (d).''.

(e) AMENDMENTS TO PHSA RELATING TO THE INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) (42 U.S.C. 300gg–51 et seq.) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

''SEC. 2753. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND SECONDARY CONSULTATIONS.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(f) AMENDMENTS TO THE IRC.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 2202, is further amended by inserting after section 9813 the following:

''SEC. 9814. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

''(A) a mastectomy;

''(B) a lumpectomy; or

''(C) a lymph node dissection for the treatment of breast cancer.

''(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

''(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a).

''(c) NOTICE.—A group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted—

''(1) in the next mailing made by the plan to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 2000;

whichever is earlier.

''(d) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(e) PROHIBITION ON PENALTIES.—A group health plan may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan involved under subsection (d).''.

(2) CLERICAL AMENDMENT.—The table of contents for chapter 100 of such Code is amended by inserting after the item relating to section 9813 the following new item:

''Sec. 9814. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.''.

TITLE XXIV—GENETIC INFORMATION AND SERVICES

SEC. 2401. SHORT TITLE.

This title may be cited as the ''Genetic Information Nondiscrimination in Health Insurance Act of 2000''.

SEC. 2402. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by section 2301(c), is further amended by adding at the end the following:

''SEC. 716. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).''.

(3) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 716.''.

(B) TABLE OF CONTENTS.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974, as amended by section 2301, is further amended by inserting after the item relating to section 715 the following new item:

''Sec. 716. Prohibiting premium discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan or issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.''.

(c) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(7) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(8) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(9) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(d) EFFECTIVE DATE.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning 1 year after the date of the enactment of this Act.

SEC. 2403. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION IN THE GROUP MARKET.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(B) NO DISCRIMINATION IN PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.), as amended by section 2301(d), is amended by adding at the end the following new section:

''SEC. 2708. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION IN THE GROUP MARKET.

''A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).''.

(C) CONFORMING AMENDMENT.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 2708.''.

(D) LIMITATION ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan or issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.''.

(2) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(17) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(18) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(19) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(e) AMENDMENTS TO PHSA RELATING TO THE INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) (42 U.S.C. 300gg–51 et seq.), as amended by section 2301(e), is further amended by adding at the end the following:

''SEC. 2754. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''(a) PROHIBITION ON PREDICTIVE GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not use predictive genetic information as a condition of eligibility of an individual to enroll in individual health insurance coverage (including information about a request for or receipt of genetic services).

''(b) PROHIBITION ON PREDICTIVE GENETIC INFORMATION IN SETTING PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium rates for individuals on the basis of predictive genetic information concerning such an individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a health insurance issuer offering health insurance coverage in the individual market shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a health insurance issuer offering health insurance coverage in the individual market that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the health insurance issuer offering health insurance coverage in the individual market shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A health insurance issuer offering health insurance coverage in the individual market shall post or provide, in writing and in a clear and conspicuous manner, notice of the issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A health insurance issuer offering health insurance coverage in the individual market shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such issuer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after 1 year after the date of enactment of this Act; and

(2) health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after 1 year after the date of enactment of this Act.

SEC. 2404. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 2301(f), is further amended by adding at the end the following:

''SEC. 9815. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent)

or a family member of the individual (including information about a request for or receipt of genetic services).''.

(B) CONFORMING AMENDMENT.—Section 9802(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or the receipt of genetic services), see section 9815.''.

(C) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 2301(f), is further amended by adding at the end the following:

''Sec. 9815. Prohibiting premium discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(d) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES; DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (e), of such predictive genetic information.

''(e) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan.''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(8) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(9) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(10) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(d) EFFECTIVE DATE.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after 1 year after the date of the enactment of this Act.

TITLE XXV—PATIENT SAFETY AND ERRORS REDUCTION

SEC. 2501. SHORT TITLE.

This title may be cited as the ''Patient Safety and Errors Reduction Act''.

SEC. 2502. PURPOSES.

It is the purpose of this title to—

(1) promote the identification, evaluation, and reporting of medical errors;

(2) raise standards and expectations for improvements in patient safety;

(3) reduce deaths, serious injuries, and other medical errors through the implementation of safe practices at the delivery level;

(4) develop error reduction systems with legal protections to support the collection of information under such systems;

(5) extend existing confidentiality and peer review protections to the reports relating to medical errors that are reported under such systems that are developed for safety and quality improvement purposes; and

(6) provide for the establishment of systems of information collection, analysis, and dissemination to enhance the knowledge base concerning patient safety.

SEC. 2503. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) by redesignating part C as part D;

(2) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(3) in section 938(1) (as so redesignated), by striking ''921'' and inserting ''931''; and

(4) by inserting after part B the following:

''PART C—REDUCING ERRORS IN HEALTH CARE

''SEC. 921. DEFINITIONS.

''In this part:

''(1) ADVERSE EVENT.—The term 'adverse event' means, with respect to the patient of a provider of services, an untoward incident, therapeutic misadventure, or iatrogenic injury directly associated with the provision of health care items and services by a health care provider or provider of services.

''(2) CENTER.—The term 'Center' means the Center for Quality Improvement and Patient Safety established under section 922(b).

''(3) CLOSE CALL.—The term 'close call' means, with respect to the patient of a provider of services, any event or situation that—

''(A) but for chance or a timely intervention, could have resulted in an accident, injury, or illness; and

''(B) is directly associated with the provision of health care items and services by a provider of services.

''(4) EXPERT ORGANIZATION.—The term 'expert organization' means a third party acting on behalf of, or in conjunction with, a provider of services to collect information about, or evaluate, a medical event.

''(5) HEALTH CARE OVERSIGHT AGENCY.—The term 'health care oversight agency' means an agency, entity, or person, including the employees and agents thereof, that performs or oversees the performance of any activities necessary to ensure the safety of the health care system.

''(6) HEALTH CARE PROVIDER.—The term 'health care provider' means—

''(A) any provider of services (as defined in section 1861(u) of the Social Security Act); and

''(B) any person furnishing any medical or other health care services as defined in section 1861(s)(1) and (2) of such Act through, or under the authority of, a provider of services described in subparagraph (A).

''(7) PROVIDER OF SERVICES.—The term 'provider of services' means a hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, renal dialysis facility, ambulatory surgical center, or hospice program, and any other entity specified in regulations promulgated by the Secretary after public notice and comment.

''(8) PUBLIC HEALTH AUTHORITY.—The term 'public health authority' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, and an Indian tribe that is responsible for public health matters as part of its official mandate.

''(9) MEDICAL EVENT.—The term 'medical event' means, with respect to the patient of a provider of services, any sentinel event, adverse event, or close call.

''(10) MEDICAL EVENT ANALYSIS ENTITY.—The term 'medical event analysis entity' means an entity certified under section 923(a).

''(11) ROOT CAUSE ANALYSIS.—

''(A) IN GENERAL.—The term 'root cause analysis' means a process for identifying the basic or contributing causal factors that underlie variation in performance associated with medical events that—

''(i) has the characteristics described in subparagraph (B);

''(ii) includes participation by the leadership of the provider of services and individuals most closely involved in the processes and systems under review;

''(iii) is internally consistent; and

''(iv) includes the consideration of relevant literature.

''(B) CHARACTERISTICS.—The characteristics described in this subparagraph include the following:

''(i) The analysis is interdisciplinary in nature and involves those individuals who are responsible for administering the reporting systems.

''(ii) The analysis focuses primarily on systems and processes rather than individual performance.

''(iii) The analysis involves a thorough review of all aspects of the process and all contributing factors involved.

''(iv) The analysis identifies changes that could be made in systems and processes, through either redesign or development of new processes or systems, that would improve performance and reduce the risk of medical events.

''(12) SENTINEL EVENT.—The term 'sentinel event' means, with respect to the patient of a provider of services, an unexpected occurrence that—

''(A) involves death or serious physical or psychological injury (including loss of a limb); and

''(B) is directly associated with the provision of health care items and services by a health care provider or provider of services.

''SEC. 922. RESEARCH TO IMPROVE THE QUALITY AND SAFETY OF PATIENT CARE.

''(a) IN GENERAL.—To improve the quality and safety of patient care, the Director shall—

''(1) conduct and support research, evaluations and training, support demonstration projects, provide technical assistance, and develop and support partnerships that will identify and determine the causes of medical errors and other threats to the quality and safety of patient care;

''(2) identify and evaluate interventions and strategies for preventing or reducing medical errors and threats to the quality and safety of patient care;

''(3) identify, in collaboration with experts from the public and private sector, reporting parameters to provide consistency throughout the errors reporting system;

''(4) identify approaches for the clinical management of complications from medical errors; and

''(5) establish mechanisms for the rapid dissemination of interventions and strategies identified under this section for which there is scientific evidence of effectiveness.

''(b) CENTER FOR QUALITY IMPROVEMENT AND PATIENT SAFETY.—

''(1) ESTABLISHMENT.—The Director shall establish a center to be known as the Center for Quality Improvement and Patient Safety to assist the Director in carrying out the requirements of subsection (a).

''(2) MISSION.—The Center shall—

''(A) provide national leadership for research and other initiatives to improve the quality and safety of patient care;

''(B) build public-private sector partnerships to improve the quality and safety of patient care; and

''(C) serve as a national resource for research and learning from medical errors.

''(3) DUTIES.—

''(A) IN GENERAL.—In carrying out this section, the Director, acting through the Center, shall consult and build partnerships, as appropriate, with all segments of the health care industry, including health care practitioners and patients, those who manage health care facilities, systems and plans, peer review organizations, health care purchasers and policymakers, and other users of health care research.

''(B) REQUIRED DUTIES.—In addition to the broad responsibilities that the Director may assign to the Center for research and related activities that are designed to improve the quality of health care, the Director shall ensure that the Center—

''(i) builds scientific knowledge and understanding of the causes of medical errors in all health care settings and identifies or develops and validates effective interventions and strategies to reduce errors and improve the safety and quality of patient care;

''(ii) promotes public and private sector research on patient safety by—

''(I) developing a national patient safety research agenda;

''(II) identifying promising opportunities for preventing or reducing medical errors; and

''(III) tracking the progress made in addressing the highest priority research questions with respect to patient safety;

''(iii) facilitates the development of voluntary national patient safety goals by convening all segments of the health care industry and tracks the progress made in meeting those goals;

''(iv) analyzes national patient safety data for inclusion in the annual report on the quality of health care required under section 913(b)(2);

''(v) strengthens the ability of the United States to learn from medical errors by—

''(I) developing the necessary tools and advancing the scientific techniques for analysis of errors;

''(II) providing technical assistance as appropriate to reporting systems; and

''(III) entering into contracts to receive and analyze aggregate data from public and private sector reporting systems;

''(vi) supports dissemination and communication activities to improve patient safety, including the development of tools and methods for educating consumers about patient safety; and

''(vii) undertakes related activities that the Director determines are necessary to enable the Center to fulfill its mission.

''(C) LIMITATION.—Aggregate data gathered for the purposes described in this section shall not include specific patient, health care provider, or provider of service identifiers.

''(c) LEARNING FROM MEDICAL ERRORS.—

''(1) IN GENERAL.—To enhance the ability of the health care community in the United States to learn from medical events, the Director shall—

''(A) carry out activities to increase scientific knowledge and understanding regarding medical error reporting systems;

''(B) carry out activities to advance the scientific knowledge regarding the tools and techniques for analyzing medical events and determining their root causes;

''(C) carry out activities in partnership with experts in the field to increase the capacity of the health care community in the United States to analyze patient safety data;

''(D) develop a confidential national safety database of medical event reports;

''(E) conduct and support research, using the database developed under subparagraph (D), into the causes and potential interventions to decrease the incidence of medical errors and close calls; and

''(F) ensure that information contained in the national database developed under subparagraph (D) does not include specific patient, health care provider, or provider of service identifiers.

''(2) NATIONAL PATIENT SAFETY DATABASE.—The Director shall, in accordance with paragraph (1)(D), establish a confidential national safety database (to be known as the National Patient Safety Database) of reports of medical events that can be used only for research to improve the quality and safety of patient care. In developing and managing the National Patient Safety Database, the Director shall—

''(A) ensure that the database is only used for its intended purpose;

''(B) ensure that the database is only used by the Agency, medical event analysis entities, and other qualified entities or individuals as determined appropriate by the Director and in accordance with paragraph (3) or other criteria applied by the Director;

''(C) ensure that the database is as comprehensive as possible by aggregating data from Federal, State, and private sector patient safety reporting systems;

''(D) conduct and support research on the most common medical errors and close calls, their causes, and potential interventions to reduce medical errors and improve the quality and safety of patient care;

''(E) disseminate findings made by the Director, based on the data in the database, to clinicians, individuals who manage health care facilities, systems, and plans, patients, and other individuals who can act appropriately to improve patient safety; and

''(F) develop a rapid response capacity to provide alerts when specific health care practices pose an imminent threat to patients or health care practitioners, or other providers of health care items or services.

''(3) CONFIDENTIALITY AND PEER REVIEW PROTECTIONS.—Notwithstanding any other provision of law any information (including any data, reports, records, memoranda, analyses, statements, and other communications) developed by or on behalf of a health care provider or provider of services with respect to a medical event, that is contained in the National Patient Safety Database shall be confidential in accordance with section 925.

''(4) PATIENT SAFETY REPORTING SYSTEMS.—The Director shall identify public and private sector patient safety reporting systems and build scientific knowledge and understanding regarding the most effective—

''(A) components of patient safety reporting systems;

''(B) incentives intended to increase the rate of error reporting;

''(C) approaches for undertaking root cause analyses;

''(D) ways to provide feedback to those filing error reports;

''(E) techniques and tools for collecting, integrating, and analyzing patient safety data; and

''(F) ways to provide meaningful information to patients, consumers, and purchasers that will enhance their understanding of patient safety issues.

''(5) TRAINING.—The Director shall support training initiatives to build the capacity of the health care community in the United States to analyze patient safety data and to act on that data to improve patient safety.

''(d) EVALUATION.—The Director shall recommend strategies for measuring and evaluating the national progress made in implementing safe practices identified by the Center through the research and analysis required under subsection (b) and through the voluntary reporting system established under subsection (c).

''(e) IMPLEMENTATION.—In implementing strategies to carry out the functions described in subsections (b), (c), and (d), the Director may contract with public or private entities on a national or local level with appropriate expertise.

''SEC. 923. MEDICAL EVENT ANALYSIS ENTITIES.

''(a) IN GENERAL.—The Director, based on information collected under section 922(c), shall provide for the certification of entities to collect and analyze information on medical errors, and to collaborate with health care providers or providers of services in collecting information about, or evaluating, certain medical events.

''(b) COMPATIBILITY OF COLLECTED DATA.—To ensure that data reported to the National Patient Safety Database under section 922(c)(2) concerning medical errors and close calls are comparable and useful on an analytic basis, the Director shall require that the entities described in subsection (c) follow the recommendations regarding a common set of core measures for reporting that are developed by the National Forum for Health Care Quality Measurement and Reporting, or other voluntary private standard-setting organization that is designated by the Director taking into account existing measurement systems and in collaboration with experts from the public and private sector.

''(c) DUTIES OF CERTIFIED ENTITIES.—

''(1) IN GENERAL.—An entity that is certified under subsection (a) shall collect and analyze information, consistent with the requirement of subsection (b), provided to the entity under section 924(a)(4) to improve patient safety.

''(2) INFORMATION TO BE REPORTED TO THE ENTITY.—A medical event analysis entity shall, on a periodic basis and in a format that is specified by the Director, submit to the Director a report that contains—

''(A) a description of the medical events that were reported to the entity during the period covered under the report;

''(B) a description of any corrective action taken by providers of services with respect to such medical events or any other measures that are necessary to prevent similar events from occurring in the future; and

''(C) a description of the systemic changes that entities have identified, through an analysis of the medical events included in the report, as being needed to improve patient safety.

''(3) COLLABORATION.—A medical event analysis entity that is collaborating with a health care provider or provider of services to address close calls and adverse events may, at the request of the health care provider or provider of services—

''(A) provide expertise in the development of root cause analyses and corrective action plan relating to such close calls and adverse events; or

''(B) collaborate with such provider of services to identify on-going risk reduction activities that may enhance patient safety.

''(d) CONFIDENTIALITY AND PEER REVIEW PROTECTIONS.—Notwithstanding any other provision of law, any information (including any data, reports, records, memoranda, analyses, statements, and other communications) collected by a medical event analysis entity or developed by or on behalf of such an entity under this part shall be confidential in accordance with section 925.

''(e) TERMINATION AND RENEWAL.—

''(1) IN GENERAL.—The certification of an entity under this section shall terminate on the date that is 3 years after the date on which such certification was provided. Such certification may be renewed at the discretion of the Director.

''(2) NONCOMPLIANCE.—The Director may terminate the certification of a medical event analysis entity if the Director determines that such entity has failed to comply with this section.

''(f) IMPLEMENTATION.—In implementing strategies to carry out the functions described in subsection (c), the Director may contract with public or private entities on a national or local level with appropriate expertise.

''SEC. 924. PROVIDER OF SERVICES SYSTEMS FOR REPORTING MEDICAL EVENTS.

''(a) INTERNAL MEDICAL EVENT REPORTING SYSTEMS.—Each provider of services that elects to participate in a medical error reporting system under this part shall—

''(1) establish a system for—

''(A) identifying, collecting information about, and evaluating medical events that occur with respect to a patient in the care of the provider of services or a practitioner employed by the provider of services, that may include—

''(i) the provision of a medically coherent description of each event so identified;

''(ii) the provision of a clear and thorough accounting of the results of the investigation of such event under the system; and

''(iii) a description of all corrective measures taken in response to the event; and

''(B) determining appropriate follow-up actions to be taken with respect to such events;

''(2) establish policies and procedures with respect to when and to whom such events are to be reported;

''(3) take appropriate follow-up action with respect to such events; and

''(4) submit to the appropriate medical event analysis entity information that contains descriptions of the medical events identified under paragraph (1)(A).

''(b) PROMOTING IDENTIFICATION, EVALUATION, AND REPORTING OF CERTAIN MEDICAL EVENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law any information (including any data, reports, records, memoranda, analyses, statements, and other communications) developed by or on behalf of a provider of services with respect to a medical event pursuant to a system established under subsection (a) shall be privileged in accordance with section 925.

''(2) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting—

''(A) disclosure of a patient's medical record to the patient;

''(B) a provider of services from complying with the requirements of a health care oversight agency or public health authority; or

''(C) such an agency or authority from disclosing information transferred by a provider of services to the public in a form that does not identify or permit the identification of the health care provider or provider of services or patient.

''SEC. 925. CONFIDENTIALITY.

''(a) CONFIDENTIALITY AND PEER REVIEW PROTECTIONS.—Notwithstanding any other provision of law—

''(1) any information (including any data, reports, records, memoranda, analyses, statements, and other communications) developed by or on behalf of a health care provider or provider of services with respect to a medical event, that is contained in the National Patient Safety Database, collected by a medical event analysis entity, or developed by or on behalf of such an entity, or collected by a health care provider or provider or services for use under systems that are developed for safety and quality improvement purposes under this part—

''(A) shall be privileged, strictly confidential, and may not be disclosed by any other person to which such information is transferred without the authorization of the health care provider or provider of services; and

''(B) shall—

''(i) be protected from disclosure by civil, criminal, or administrative subpoena;

''(ii) not be subject to discovery or otherwise discoverable in connection with a civil, criminal, or administrative proceeding;

''(iii) not be subject to disclosure pursuant to section 552 of title 5, United States Code (the Freedom of Information Act) and any other similar Federal or State statute or regulation; and

''(iv) not be admissible as evidence in any civil, criminal, or administrative proceeding;

without regard to whether such information is held by the provider or by another person to which such information was transferred;

''(2) the transfer of any such information by a provider of services to a health care oversight agency, an expert organization, a medical event analysis entity, or a public health authority, shall not be treated as a waiver of any privilege or protection established under paragraph (1) or established under State law.

''(b) PENALTY.—It shall be unlawful for any person to disclose any information described in subsection (a) other than for the purposes provided in such subsection. Any person violating the provisions of this section shall, upon conviction, be fined in accordance with title 18, United States Code, and imprisoned for not more than 6 months, or both.

''(c) APPLICATION OF PROVISIONS.—The protections provided under subsection (a) and the penalty provided for under subsection (b) shall apply to any information (including any data, reports, memoranda, analyses, statements, and other communications) collected or developed pursuant to research, including demonstration projects, with respect to medical error reporting supported by the Director under this part.

''SEC. 926. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part, $50,000,000 for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.''.

SEC. 2504. EFFECTIVE DATE.

The amendments made by section 2503 shall become effective on the date of the enactment of this Act.

This Act may be cited as the ''Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001''.

UNANIMOUS CONSENT AGREEMENT—H.R. 4577

AMENDMENT NO. 3714

Mr. WARNER. Mr. President, during wrap-up of H.R. 4577, the Labor appropriations bill, amendment No. 3714, which had been agreed to, was inadvertently displaced. I ask unanimous consent that the amendment be placed back in its original position in the bill.

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

AMENDMENT NO. 3633

Mr. WARNER. Mr. President, I ask unanimous consent that with respect to amendment No. 3633, previously agreed to, a correction be made with the following change:

On line 7, strike $1,065,000,000 and insert in lieu thereof $1,075,000,000.

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

DISABLED VETERANS' LIFE MEMORIAL FOUNDATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 516, S. 311.

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

The legislative clerk read as follows:

A bill (S. 311) to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:.

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 311

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

TITLE I—THE DISABLED AMERICAN VETERANS MEMORIAL

[SECTION 1.] *SECTION 101.* AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—**[**The Disabled**]** *Notwithstanding section 3(c) of Public Law 99–652, as amended (40 U.S.C. 1003(c)), the Disabled* Veterans' LIFE Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor disabled American veterans who have served in the Armed Forces of the United States.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial authorized by subsection (a)

shall be in accordance with the Act entitled ''An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes'', approved November 14, 1986 (40 U.S.C. 1001 et seq.).

SEC. [2.] *102.* PAYMENT OF EXPENSES.

The Disabled Veterans' LIFE Memorial Foundation shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial authorized by section 1(a). No Federal funds may be used to pay any expense of the establishment of the memorial.

SEC. [3.] *103.* DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the memorial authorized by section 1(a) (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of such Act, there remains a balance of funds received for the establishment of the memorial, the Disabled Veterans' LIFE Memorial Foundation shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act.

TITLE II—COMMEMORATIVE WORKS ACT AMENDMENTS

SEC. 201. REFERENCE TO COMMEMORATIVE WORKS ACT.

(a) In this title the term ''Act'' means the Commemorative Works Act of 1986, as amended (Public Law 99–652; 40 U.S.C. 1001 et seq.).

SEC. 202. CLARIFICATIONS AND REVISIONS TO THE ACT.

(a) Section 1(b) of the Act (40 U.S.C. 1001(b)) is amended by striking the semicolon and inserting ''and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia;''.

(b) Section 2 of the Act (40 U.S.C. 1002) is amended as follows:

(1) In subsection (c) by striking ''or a structure which is primarily used for other purposes'' and inserting ''that is not a commemorative work as defined by this Act'';

(2) In subsection (d) by striking ''person'' and inserting ''sponsor'';

(3) In subsection (e) by striking ''Areas I and II as depicted on the map numbered 869/86501, and dated May 1, 1986', and insert ''the Reserve, Area I, and Area II as depicted on the map numbered 869/86501A, and dated March 23, 2000'';

(4) By redesignating subsection (e) as subsection (f); and

(5) By adding a new subsection (e) as follows:

''(e) the term ''Reserve'' means the great cross-axis of the Mall, which is a substantially completed work of civic art and which generally extends from the U.S. Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map described in subsection (f);''.

(c) Section 3 of the Act (40 U.S.C. 1003) is amended as follows:

(1) In subsection (b)—

(A) by striking ''work commemorating a lesser conflict'' and inserting ''work solely commemorating a limited military engagement'';

(B) by striking ''10'' and inserting ''25''; and

(C) by striking ''the event.'' and inserting ''such war or conflict.''.

(2) In subsection (c) by striking ''other than a military commemorative work as described in subsection (b) of this section''; and

(3) In subsection (d) by striking ''House Oversight'' and inserting ''Resources''.

(d) Section 4 of the Act (40 U.S.C. 1004) is amended as follows:

(1) By amending subsection (a) to read as follows:

''(a) The National Capital Memorial Commission is hereby established and shall include the following members or their designees:

''(1) Director, National Park Service (who shall serve as Chairman);

''(2) Architect of the Capitol;

''(3) Chairman, American Battle Monuments Commission;

''(4) Chairman, Commission of Fine Arts;

''(5) Chairman, National Capital Planning Commission;

''(6) Mayor, District of Columbia;

''(7) Commissioner, Public Buildings Service, General Services Administration; and

''(8) Secretary, Department of Defense.''; and

(2) In subsection (b) by striking ''Administrator'' and inserting ''Administrator (as appropriate)''.

(e) Section 5 of the Act (40 U.S.C. 1005) is amended—

(1) By striking ''Administrator'' and inserting ''Administrator (as appropriate)'' and

(2) By striking ''869/8501, and dated May 1, 1986.'' and inserting ''869/8501A, and dated March 23, 2000.''.

(f) Section 6 of the Act (40 U.S.C. 1006) is amended as follows:

(1) In subsection (a) by striking ''3(b)'' and inserting ''3(d)'';

(2) By redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(3) by adding a new subsection (a) as follows:

''(a) Sites for commemorative works shall not be authorized within the Reserve after January 1, 2000.''.

(g) Section 7 of the Act (40 U.S.C. 1007) is amended as follows:

(1) By striking ''person'' and inserting ''sponsor'' each place it appears;

(2) In subsection (a) by striking ''designs'' and inserting ''design concepts'';

(3) In subsection (b) by striking ''and Administrator'' and inserting ''or Administrator (as appropriate)'';

(4) In subsection (b)(2) by striking ''open space and existing public use; and'' and inserting ''open space, existing public use, and cultural and natural resources;'';

(5) In subsection (b)(3) by striking the period at the end and inserting a semicolon; and

(6) by adding the following new paragraphs:

''(4) No commemorative work primarily designed as a museum may be located on lands under the jurisdiction of the Secretary in Area I or in East Potomac Park as depicted on the map referenced in subsection 2(f);

''(5) The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specified to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this Act; and''

''(6) Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.''.

(h) Section 8 of the Act (40 U.S.C. 1008) is amended as follows:

(1) In subsection (a)(3) and (a)(4) and in subsection (b) by striking ''person'' each place it appears and inserting ''sponsor'';

(2) In subsection (b)(1) and (b)(2) by striking ''persons'' each place it appears and inserting ''a sponsor'';

(3) By adding at the end of subsection (b)(1), ''All such proceeds shall be available, without further appropriation, for the non-recurring repair of the sponsor's commemorative work.'';

(4) In subsection (b)(2), by striking ''Congress authorizes and directs that,'' and inserting ''Congress authorizes and directs that, upon request,'';

(5) In subsection (b)(2) in the first sentence strike ''Administrator'', and inserting ''Administrator (as appropriate)''; and

(6) By amending subsection (c) to read as follows:

''(c) The sponsor shall be required to submit to the Secretary or the Administrator (as appropriate) an annual report of operations, including financial statements audited by an independent certified public accountant, paid for by the sponsor authorized to construct the commemorative work.''.

(i) Section 9 of the Act (40 U.S.C. 1009) is hereby repealed.

(j) Section 10 of the Act (40 U.S.C. 1010) is amended as follows:

(1) by amending subsection (b) to read as follows:

''(b) Any legislative authority for a commemorative work shall expire at the end of the seven-year period beginning on the date of the enactment of such authority, or at the end of the seven-year period beginning on the date of the enactment of legislative authority to locate the commemorative work within Area I where such addition authority has been granted, unless:

''(1) the Secretary or the Administrator (as appropriate) has issued a construction permit for the commemorative work during that period; or

''(2) the Secretary or the Administrator, in consultation with the National Capital Memorial Commission, has made a determination that final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts and that 75 percent of the amount estimated to be required to complete the memorial has been raised. If these two conditions have been met, the Secretary or the Administrator may extend the 7-year legislative authority for a period not to exceed three years from the date of expiration. Upon expiration of the legislative authority, any previous site and design approvals will also expire.''; and

(2) By adding a new subsection (f) as follows:

''(f) The National Capital Planning Commission, in coordination with the Commission of Fine Arts and the National Capital Memorial Commission, shall complete its master plan to guide the location and development of future memorials outside the Reserve for the next 50 years, including evaluation of and guidelines for potential sites.''.

AMENDMENT NO. 3777

(Purpose: To clarify that the sites for memorials previously approved are not affected by the amendments to the Commemorative Works Act made in title II of the bill, and to make clarifying changes)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THOMAS, proposes an amendment numbered 3777.

The amendment is as follows:

On page 2, line 1, strike ''American''.

On page 2, line 10, strike ''American''.

On page 3, after line 16, insert the following new section and redesignate the following sections accordingly:

''SEC. 201. SHORT TITLE.

''This title may be cited as the ''Commemorative Works Clarification and Revision Act of 2000''.

On page 8, line 6, through page 9, line 6, strike subsection (h) in its entirety and insert the following:

''(h) Section 8 of the Act (40 U.S.C. 1008) is amended as follows:

''(1) In subsection (a)(3) and (a)(4) and in subsection (b) by striking ''person'' each place it appears and inserting ''sponsor'';

''(2) by amending subsection (b) to read as follows:

''(b) In addition to the foregoing criteria, no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. All such proceeds

shall be available for the nonrecurring repair of the sponsor's commemorative work pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources.

''(1) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of this subsection provided by a sponsor for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

''(2) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2000 shall be credited to a separate account with the National Park Foundation.

''(3) Upon request, the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (1) or (2). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended.''; and

''(3) By amending subsection (c) to read as follows:

''(c) The sponsor shall be required to submit to the Secretary or the Administrator (as appropriate) an annual report of operations, including financial statements audited by an independent certified public accountant, paid for by the sponsor authorized to construct the commemorative work.''.

On page 10, after line 17, insert the following:

''SEC. 204. PREVIOUSLY APPROVED MEMORIALS.

''Nothing in this title shall apply to a memorial whose site was approved, in accordance with the Commemorative Works Act of 1986 (Public Law 99–652; 40 U.S.C. 1001 et seq.), prior to the date of enactment of this title.''.

Mr. WARNER. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendments be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The amendment (No. 3777) was agreed to.

The committee amendments were agreed to.

The bill (S. 311), as amended, was read the third time and passed, as follows:

S. 311

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

TITLE I—THE DISABLED VETERANS MEMORIAL

SECTION 101. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—Notwithstanding section 3(c) of Public Law 99–652, as amended (40 U.S.C. 1003(c)), the Disabled Veterans' LIFE Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor disabled veterans who have served in the Armed Forces of the United States.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial authorized by subsection (a) shall be in accordance with the Act entitled ''An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes'', approved November 14, 1986 (40 U.S.C. 1001 et seq.).

SEC. 102. PAYMENT OF EXPENSES.

The Disabled Veterans' LIFE Memorial Foundation shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial authorized by section 1(a). No Federal funds may be used to pay any expense of the establishment of the memorial.

SEC. 103. DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the memorial authorized by section 1(a) (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of such Act, there remains a balance of funds received for the establishment of the memorial, the Disabled Veterans' LIFE Memorial Foundation shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act.

TITLE II—COMMEMORATIVE WORKS ACT AMENDMENTS

SEC. 201. SHORT TITLE

This title may be cited as the ''Commemorative Works Clarification and Revision Act of 2000''.

SEC. 202. REFERENCE TO COMMEMORATIVE WORKS ACT.

(a) In this title the term ''Act'' means the Commemorative Works Act of 1986, as amended (Public Law 99–652; 40 U.S.C. 1001 et seq.).

SEC. 203. CLARIFICATIONS AND REVISIONS TO THE ACT.

(a) Section 1(b) of the Act (40 U.S.C. 1001(b)) is amended by striking the semicolon and inserting ''and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia;''.

(b) Section 2 of the Act (40 U.S.C. 1002) is amended as follows:

(1) In subsection (c) by striking ''or a structure which is primarily used for other purposes'' and inserting ''that is not a commemorative work as defined by this Act'';

(2) In subsection (d) by striking ''person'' and inserting ''sponsor'';

(3) In subsection (e) by striking ''Areas I and II as depicted on the map numbered 869/86501, and dated May 1, 1986', and insert ''the Reserve, Area I, and Area II as depicted on the map numbered 869/86501A, and dated March 23, 2000'';

(4) By redesignating subsection (e) as subsection (f); and

(5) By adding a new subsection (e) as follows:

''(e) the term ''Reserve'' means the great cross-axis of the Mall, which is a substantially completed work of civic art and which generally extends from the U.S. Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map described in subsection (f);''.

(c) Section 3 of the Act (40 U.S.C. 1003) is amended as follows:

(1) In subsection (b)—

(A) by striking ''work commemorating a lesser conflict'' and inserting ''work solely commemorating a limited military engagement'';

(B) by striking ''10'' and inserting ''25''; and

(C) by striking ''the event.'' and inserting ''such war or conflict.''.

(2) In subsection (c) by striking ''other than a military commemorative work as described in subsection (b) of this section''; and

(3) In subsection (d) by striking ''House Oversight'' and inserting ''Resources''.

(d) Section 4 of the Act (40 U.S.C. 1004) is amended as follows:

(1) By amending subsection (a) to read as follows:

''(a) The National Capital Memorial Commission is hereby established and shall include the following members or their designees:

''(1) Director, National Park Service (who shall serve as Chairman);

''(2) Architect of the Capitol;

''(3) Chairman, American Battle Monuments Commission;

''(4) Chairman, Commission of Fine Arts;

''(5) Chairman, National Capital Planning Commission;

''(6) Mayor, District of Columbia;

''(7) Commissioner, Public Buildings Service, General Services Administration; and

''(8) Secretary, Department of Defense.''; and

(2) In subsection (b) by striking ''Administrator'' and inserting ''Administrator (as appropriate)''.

(e) Section 5 of the Act (40 U.S.C. 1005) is amended—

(1) By striking ''Administrator'' and inserting ''Administrator (as appropriate)'' and

(2) By striking ''869/8501, and dated May 1, 1986.'' and inserting ''869/8501A, and dated March 23, 2000.''.

(f) Section 6 of the Act (40 U.S.C. 1006) is amended as follows:

(1) In subsection (a) by striking ''3(b)'' and inserting ''3(d)'';

(2) By redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(3) by adding a new subsection (a) as follows:

''(a) Sites for commemorative works shall not be authorized within the Reserve after January 1, 2000.''.

(g) Section 7 of the Act (40 U.S.C. 1007) is amended as follows:

(1) By striking ''person'' and inserting ''sponsor'' each place it appears;

(2) In subsection (a) by striking ''designs'' and inserting ''design concepts'';

(3) In subsection (b) by striking ''and Administrator'' and inserting ''or Administrator (as appropriate)'';

(4) In subsection (b)(2) by striking ''open space and existing public use; and'' and inserting ''open space, existing public use, and cultural and natural resources;'';

(5) In subsection (b)(3) by striking the period at the end and inserting a semicolon; and

(6) by adding the following new paragraphs:

''(4) No commemorative work primarily designed as a museum may be located on lands under the jurisdiction of the Secretary in Area I or in East Potomac Park as depicted on the map referenced in subsection 2(f);

''(5) The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specified to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this Act; and''

''(6) Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.''.

(h) Section 8 of the Act (40 U.S.C. 1008) is amended as follows:

(1) In subsections (a)(3) and (a)(4) and in subsection (b) by striking ''person'' each place it appears and inserting ''sponsor''.

(2) By amending subsection (b) to read as follows:

''(b) In addition to the foregoing criteria, no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. All such proceeds shall be available for the nonrecurring repair of the sponsor's commemorative work pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources:

''(1) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of this subsection provided by a sponsor for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

''(2) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2000 shall be credited to a separate account with the National Park Foundation.

''(3) Upon request, the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (1) or (2). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended.''.

(3) By amending subsection (c) to read as follows:

''(c) The sponsor shall be required to submit to the Secretary or the Administrator (as appropriate) an annual report of operations, including financial statements audited by an independent certified public accountant, paid for by the sponsor authorized to construct the commemorative work.''.

(i) Section 9 of the Act (40 U.S.C. 1009) is hereby repealed.

(j) Section 10 of the Act (40 U.S.C. 1010) is amended as follows:

(1) by amending subsection (b) to read as follows:

''(b) Any legislative authority for a commemorative work shall expire at the end of the seven-year period beginning on the date of the enactment of such authority, or at the end of the seven-year period beginning on the date of the enactment of legislative authority to locate the commemorative work within Area I where such addition authority has been granted, unless:

''(1) the Secretary or the Administrator (as appropriate) has issued a construction permit for the commemorative work during that period; or

''(2) the Secretary or the Administrator, in consultation with the National Capital Memorial Commission, has made a determination that final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts and that 75 percent of the amount estimated to be required to complete the memorial has been raised. If these two conditions have been met, the Secretary or the Administrator may extend the 7-year legislative authority for a period not to exceed three years from the date of expiration. Upon expiration of the legislative authority, any previous site and design approvals will also expire.''; and

(2) By adding a new subsection (f) as follows:

''(f) The National Capital Planning Commission, in coordination with the Commission of Fine Arts and the National Capital Memorial Commission, shall complete its master plan to guide the location and development of future memorials outside the Reserve for the next 50 years, including evaluation of and guidelines for potential sites.''.

SEC. 204. PREVIOUSLY APPROVED MEMORIALS.

Nothing in this title shall apply to a memorial whose site was approved, in accordance with the Commemorative Works Act of 1986 (Public Law 99–652; 40 U.S.C. 1001 et seq.), prior to the date of enactment of this title.

Mr. DASCHLE. Mr. President, I am proud and pleased that today the Senate has voted to authorize a memorial in our Nation's Capital to honor disabled American veterans.

I must say that it is humbling for me to be a co-sponsor of this bill alongside some of the very people we are honoring—my fellow Senators MAX CLELAND, DANIEL INOUYE and BOB KERREY. I know there are thousands of others across our country—some of whom I know personally—and they deserve much more than a monument. They all have had their lives disrupted, sometimes painfully, as a result of their willingness to fight for America and all that it stands for.

But we cannot undo the damage to limb and spirit that has already been inflicted. So we now authorize a permanent monument that will call attention to the special esteem we hold for our disabled veterans—living and dead. It is my sincere hope that we can create a singular commemorative site that will encourage all Americans to come, pause, and reflect on the meaning of sacrifice, patriotism, and the place of disabled citizens in our society.

Mr. President, wish the Disabled Veterans' LIFE Memorial Foundation all the best in the hard work to come, and I look forward to the day when the people of America can admire the memorial and reflect on the significant sacrifices it represents.

ORDERS FOR TUESDAY, JULY 11, 2000

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Tuesday, July 11. I further ask consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10:15 a.m., with the time equally divided between Senators ROTH and MOYNIHAN.

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

PROGRAM

Mr. WARNER. Mr. President, for the information of all Senators, the Senate will be in a period of morning business until 10:15 a.m. tomorrow. Following morning business, a cloture vote will occur on the motion to proceed to H.R. 8, the Death Tax Elimination Act.

If cloture is invoked, the Senate will continue postcloture debate on the motion to proceed. In addition, it is expected that the Senate will resume consideration of the Interior appropriations bill in an effort to make further progress on that bill. As previously announced, it will be the leadership's intention to debate amendments to the DOD authorization bill during evening sessions this week. Any votes ordered on DOD amendments will be postponed to occur the following morning. The Senate is also expected to return to the reconciliation bill late this week. Senators can expect votes each day this week, with late nights and the possibility of a late session on Friday or a session on Saturday in order to complete the reconciliation bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:48 p.m., adjourned until Tuesday, July 11, 2000, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 2000:

DEPARTMENT OF LABOR

LESLIE BETH KRAMERICH, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE RICHARD M. MCGAHEY, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. THOMAS R. CASE, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. SCOTT A. FRY, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAIN UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN W. ALEXANDER, JR, 0000
MARIO M. AMEZCUA, 0000
LINDSEY E. ARNOLD, 0000
DIXEY R. BEHNKEN, 0000
SCOTT R. BORDERUD, 0000
DAVID R. BROCK, 0000
LAWRENCE J. CONWAY III, 0000
JOHN J. COOK III, 0000
DAVID L. DARBYSHIRE, 0000

IVERY L. DELACRUZ, 0000
CALVIN L. EASTHAM, JR, 0000
CHESTER C. EGERT, 0000
ERIC J. ERKKINEN, 0000
JOSEPH A. HARTRANFT, 0000
ROBERT D. HESTER, JR, 0000
DAVID P. HILLIS, 0000
JOSEPH J. KRAINTZ, JR, 0000
CHESTER H. LANIOUS, 0000
DANIEL L. MOLL, 0000
DENNIS R. NEWTON, 0000
JOHN E. POWERS, 0000
THOMAS E. PRESTON, 0000
MICHAEL C. PUNKE, 0000
BENJAMIN D. RICHARDSON, 0000
BYRON J. SIMMONS, 0000
RONALD L. SMITH, 0000
VIRGIL P. TRAVIS, JR, 0000
DONALD L. WILSON, 0000

CONFIRMATION

Executive nomination confirmed by the Senate July 10, 2000:

DEPARTMENT OF ENERGY

MADELYN R. CREEDON, OF INDIANA, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION.