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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who is unsearchable in Your judgments and in Your ways past finding out, we experience awe before the mystery of Your being and confess that we can say nothing worthy of You. You decide the number of the stars, and call each one by name.

Lord, You have given us the gift of this day, so please help us to use it for Your glory. Continue to keep us from the whispers of sin and teach us to act wisely.

Guide our Senators in their deliberation. Keep their steps on Your path, and may they not waver from following You. Today, let our words, and even our thoughts, bring You pleasure. We love You, Lord, for You are our strength. We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will begin an hour of debate prior to the cloture votes on the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development. We hope that cloture will be invoked and allow the Senate to proceed to a vote on the confirmation of this nomination.

NOTICE

If the 108th Congress, 1st Session, adjourns sine die on or before November 21, 2003, a final issue of the Congressional Record for the 108th Congress, 1st Session, will be published on Monday, December 15, 2003, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–410A of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 12, 2003. The final issue will be dated Monday, December 15, 2003, and will be delivered on Tuesday, December 16, 2003.

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Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at ''Record@Sec.Senate.gov''.

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerkhouse.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–60 of the Capitol.

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By order of the Joint Committee on Printing.

ROBERT W. NEY, *Chairman.*

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

Following the cloture votes, the Senate will resume consideration of the VA–HUD appropriations bill. Senators BOND and MIKULSKI reached an agreement yesterday which should bring the bill to a conclusion early today. We may be able to finish this morning or early afternoon.

In addition, today we may consider the nomination of MG Robert T. Clark to be a lieutenant general in the U.S. Army. This nomination will be considered under a 2-hour time limit which was agreed to last week.

Finally, I add that we will also be scheduling any conference reports that may become available. Rollcall votes will occur throughout the day today and Members will be notified as they are scheduled.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

THOMAS C. DORR TO BE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT AND MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the nomination of Thomas C. Dorr, which the clerk will report.

The legislative clerk read the nomination of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development; and Thomas C. Dorr, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation.

The PRESIDENT pro tempore. Under the previous order, the time until 10:30 shall be divided equally between the chairman and ranking member of the Agriculture Committee or their designees.

The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I yield myself such time as I may consume under the order.

As chairman of the Committee on Agriculture, I am pleased to announce that the committee acted favorably on the nomination of Thomas Dorr to be Under Secretary for the Department of Agriculture for Rural Development and has reported that nomination to the Senate. We understand that considerable debate time is planned to be used and so the leader decided to file a cloture on the nomination so we could bring this matter to a conclusion. We will have a vote on cloture after the debates. I hope the Senate will vote to cut off debate and we can move to a vote on this nomination and confirm Mr. Dorr in this job as Under Secretary of Agriculture.

Mr. Dorr has served capably under a recess appointment which was made by the President on August 9, 2002. The Senate committee reviewed his qualifications and found him to be well qualified. Hearings were held back in 2001 when the other party was in the majority and controlled the Senate Agriculture Committee. Opposition to the nomination of Mr. Dorr was expressed at that time, and the nomination was virtually blocked and returned to the President without being acted upon.

The President resubmitted that nomination, and it has languished, in effect, for a good while, while Senators who have been opposed to the nomination have expressed their concerns. It is clear that the nominee is very well qualified, not only because of his experience in business and his knowledge of rural America and the problems we face, but his understanding of the job at the Department of Agriculture which he has been asked to assume.

Mr. Dorr oversees the Department's rural development mission area that consists of three agencies, $14 billion of annual funding authority for loans, grants and technical assistance to rural residents, communities and businesses, and an $80 billion portfolio of existing infrastructure loans to rural America.

Rural development has over 7,000 employees across the United States, in Puerto Rico, the Virgin Islands, and the western Pacific trust territories. This is a big job. It is an enormous responsibility and requires someone with a business background and with administrative skills to manage an agency of this size.

Mr. Dorr has a broad base of experience to draw upon in agriculture, as well as financial and business experience. He has served as a member of the board of directors of the Seventh District Federal Reserve Bank of Chicago, the Iowa Board of Regents from 1991 to 1997, and as a member and officer of the Iowa and National Corn Growers Associations.

Prior to this appointment, Mr. Dorr was the president of a family agribusiness company consisting of corn and soybean farms, a State-licensed commercial grain elevator and warehouse, and two limited liability companies. Mr. Dorr is a graduate of Morningside College, has a BS degree in business administration, and he is from Marcus, IA. The support for the nomination is widespread. I ask unanimous consent that copies of letters endorsing his nomination be printed in the RECORD.

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

NOVEMBER 3, 2003.

DEAR SENATOR: The below signed organizations urge you to vote in support of the confirmation of Thomas Dorr as Under Secretary of Rural Development, United States Department of Agriculture. The position of Under Secretary of Rural Development is critical in a number of ways to the success of rural America and agriculture communities.

Mr. Dorr has proven that he has the skill and experience necessary to lead USDA's Rural Development efforts. The Senate Committee on Agriculture, Forestry and Nutrition recognizes the importance of this position and favorably reported (14–7) Mr. Dorr's nomination in bipartisan fashion on June 18, 2003.

The confirmation of Mr. Dorr will allow these vital programs the greatest possibility of success. Mr. Dorr deserves an up or down vote in the United States Senate, we urge you to vote for his confirmation.

Sincerely,

American Farm Bureau Federation.
American Meat Institute.
American Soybean Association.
National Association of Wheat Growers.
National Cattlemen's Beef Association.
National Chicken Council.
National Corn Growers Association.
National Cotton Council.
National Milk Producers Federation.
National Pork Producers Council.
National Turkey Federation.
United Egg Association.
United Egg Producers.
United Fresh Fruits and Vegetables Association.
USA Rice Federation.

OFFICE FOR THE ADVANCEMENT OF PUBLIC BLACK COLLEGES,
October 2, 2003.

Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: As chair of the Council of 1890 Presidents/Chancellors, I am writing to express our appreciation for your continued leadership and to convey our support of Thomas C. Dorr, Under Secretary, Rural Development, U.S. Department of Agriculture.

For your information, the Council represents the nation's 18 Black-land-grant colleges/universities and is a policymaking body that is committed to advancing the land-grant mission. The 1890s are located in 17 states, the District of Columbia and the U.S. Virgin Islands and enroll nearly 50 percent of all students attending HBCUs. We work closely with the National Association of State Universities and Land-Grant Colleges and provide leadership for the Council of 1890 Colleges/Universities.

As ranking member of the Senate Agriculture, Nutrition and Forestry Committee, your support of the 1890s has made a significant difference in the infrastructure of our institutions and in our ability to assume greater responsibility for advancing and securing the nation's food and agricultural enterprise. Guided by our 1890 Strategic Plan (copy enclosed), our universities are investing heavily and wisely in:

Serving as a vital force in the conduct of teaching, research and extension and public service; serving as an adjunct to the American economy; expanding and creating new partnerships with socially and economically distressed communities and government, business and industry; transforming the knowledge we produce into solutions designed to improve the quality of life of farmers and families in rural communities and; providing a seamless network of resources and services to key stakeholders in the food and agricultural enterprise.

While these achievements are worth noting, the 1890s continue to face nearly insurmountable barriers in accessing the breath of programs administered by USDA. In response, Under Secretary Dorr has been an invaluable resource in helping us build new and complementary relationships within and without USDA. Most recently, he represented the Department at a town hall

meeting, ''Small Farmers' Voices,'' sponsored by the Council and held at Alcorn State University.

More than 200 farmers from the Delta area attended the forum—unabashed and relentless farmers who represent the bottom of America's agriculture industry. In spite of the challenge, Tom was superlative in guiding the farmers through the economic and political realities of the global marketplace and helping them to understand the makeup of programs and the allocation of resources at USDA. He has set the state for sustained dialogue between USDA, the 1890s and farmers in distress. This represents only a snapshot of the many challenges that Under Secretary Dorr has helped us negotiate.

With your strong leadership and unrelenting support of public servants like Thomas C. Dorr, we are confident that the 1890s will continue to serve as an economic instrument of the state and the nation.

Sincerely,

CLINTON BRISTOW,
Chair, Council of 1890 Presidents/Chancellors & President, Alcorn State University.

FEDERAL RESERVE BANK OF CHICAGO,
October 9, 2001.

Hon. TOM HARKIN,
Chairman, Senate Committee on Agriculture, Nutrition and Forestry, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: I am writing to you in support of the nomination of Mr. Thomas C. Dorr. I have known Tom for almost seven years and have come to greatly respect and admire his dedication to the development of sound economic and agriculture policies. My initial interactions with Tom occurred during the time he served on the Board of Directors of the Federal Reserve Bank of Chicago. During this time and over the years that have followed, I have observed Tom in numerous settings. These settings have ranged from formal Chicago Fed Board of Directors' meetings, to a variety of less formal settings including celebratory dinners, social functions, and conventions, among others. No matter what the occasion, I can honestly say that I have always found Tom to be the consummate gentleman, a good listener, and someone who always offers comments and suggestions grounded in a solid understanding of the issues.

I have always found Tom's insights to be extremely valuable in a variety of areas, most notably that related to agricultural and economic policy. However, it would be an oversight not to mention the solid advice and counsel he has provided on issues dealing social problems in general and the impact of technological change on life in rural and agriculture communities, in particular. Tom was one of a handful of people to understand that while the adoption of technological advances in the farm sector would lift productivity to new levels, these same changes could also have adverse implications for the viability of the traditional family farm. In particular, he often expressed concern for the plight of the traditional family farm, an institution facing intense competitive pressures from larger more efficient operators and one typically requiring significant off-farm income just to break even. In the face of these developments, Tom continually raised concern about the lack of a coherent plan for maintaining the viability of the small farm on the one hand and dealing with the social issues likely to result from their potential displacement on the other.

As I noted above, I admire and respect Tom. I understand that some parties have claimed that Tom is insensitive to issues related to diversity. As an African American that recently sponsored the Federal Reserve Bank of Chicago's bank-wide diversity program, I can honestly say that I have never felt uncomfortable in Tom's presence. I have never heard him offer disparaging remarks about people of color, the intrinsic value of diversity, or about small farmers for that matter. Based on my years of interacting with Tom, I am certain that he is not racist in any way and would challenge anyone that would claim otherwise.

Needless to say, I am a big supporter of Tom Dorr. He is bright, articulate, and personable. He accepts critical comments well, is not afraid to speak his mind, and demonstrates rigorous economic thinking at all times. Finally, he has a deep understanding and appreciation of the issues confronting our rural and agriculture communities and I have no doubt that he will serve our country well. I hope that you find my assessment helpful in your deliberations. If I can provide any further information, please feel free to contact me.

Sincerely,

WILLIAM C. HUNTER.

NATIONAL CORN GROWERS ASSOCIATION,
March 19, 2002.

Hon. TOM HARKIN,
Chairman, Senate Agriculture, Nutrition and Forestry Committee, Senate Russell, Washington, DC.

DEAR CHAIRMAN HARKIN: For over forty-five years, the National Corn Growers Association (NCGA) and its affiliated states have represented US corn growers working towards a prosperous rural economy and a successful agricultural industry. With over 31,000 dues-paying corn growers from 48 states and representing the interest of more than 300,000 farmers who contribute to corn check off programs, NCGA takes seriously its commitment to our membership and our colleagues throughout the agricultural sector.

Recently, your Committee completed a hearing to review the nomination of Tom Dorr for Under-Secretary for Rural Development. For the past year, the Committee has let the nomination languish, thereby preventing the Department of Agriculture (USDA) from providing needed leadership in rural America. Throughout this process, we have been amazed regarding the controversy surrounding Mr. Dorr's nomination. While good people can disagree about ideology and philosophy, we do not agree holding rural America hostage to ''inside the beltway'' politics.

Mr. Dorr has devoted himself to the well being of the family farmer and his commitment to domestic agriculture is unparalleled. As a longtime farmer and livestock producer in Northwest Iowa, he is intimately familiar with the challenges facing the agriculture industry in the Midwest and throughout the country. The Department needs a leader like Tom to help breathe life into an agency whose future role will be to positively facilitate change in the farm economy.

You should know that our association is nonpartisan and does not endorse political candidates. Our Board and membership serve without respect to political affiliation and our policies and priorities have one singular purpose, to do what is best for rural America. We believe the Senate Agriculture Committee should act in a similar manner.

Mr. Dorr's patience throughout the confirmation process illustrates his commitment to public service and singular desire to help rural America. We respectfully request the Committee complete the nomination process as soon as possible. Not only is it the right thing to do, it is vital to ensure that domestic agriculture has a strong place in the future of this nation.

Tim Hume, President, Walsh, CO;
Ron Olson, Waubay, SD;
Fred Yoder, President-Elect, Plain City, OH;
Richard Peterson, Mountain Lake, MN;
Lee Klein, Chairman of the Board, Battle Creek, NE;
Kyle Phillips, Knoxville, IA;
Charles Alexander, Stonewall, NC;
John Tibbits, Minneapolis, KS;
Leon (Len) Corzine, Assumption; IL;
Gerald Tumbleson, Sherburn, MN;
Gregory Guenther, Belleville, IL;
Dee Vaughan, Dumas, TX;
William Horan, Rockwell City, IA;
Ron Woollen, Wilcox, NE;
Gene Youngquist, Cameron, IL.

NATIONAL ASSOCIATION OF WHEAT GROWERS,
March 14, 2002.

Hon. TOM HARKIN,
Chairman, Senate Committee on Agriculture, Forestry and Nutrition, Senate Russell Building, Washington, DC.

DEAR SENATOR HARKIN: We are writing in support of Tom Dorr to be confirmed as Under Secretary for Rural Development. Mr. Dorr has the vision and experience to help revitalize the rural landscape of America.

It is our hope that farm-state Senators will support a person for Rural Development Under Secretary whom knows farm issues firsthand and has experienced success in this challenging and competitive environment. Tom Dorr is a true leader that has the talent and tenacity to be successful. National Association of Wheat Growers is confident that Tom will bring solid successful solutions to the challenging economic environment in America.

Rural America is in real trouble. Foreign Agricultural competition is accelerating at a rapid pace. Foreign producers can grow crops more economically because of fewer regulatory burdens, relative currency values, and a host of other factors. Agriculture needs strong people in senior positions of USDA who will fight for farmers and rural communities, and Tom Dorr is one of those people.

We encourage you to unite behind Tom Dorr as Under Secretary for Rural Development. He encompasses the creativity that can bring hope in stemming the exodus of people from our rural countryside because of lack of economic opportunity.

Sincerely,

GARY BROYLES,
President.

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
May 20, 2003.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Senate Hart Building, Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for giving me the opportunity to express the concerns of Rural Electric Cooperatives to you and Mr. Dorr, Under Secretary for Rural Development.

Mr. Dorr's frankness in addressing the issues facing Electric Cooperatives is much appreciated. His willingness to answer questions recently expressed by our membership is most helpful.

In light of your support and Mr. Dorr's commitment to Rural America, as well as his willingness to work with Rural Electric Cooperatives, we have no reservations regarding Mr. Dorr's confirmation.

Sincerely,

GLENN ENGLISH,
Chief Executive Officer.

Mr. COCHRAN. Mr. President, I am hopeful that the Senate will act favorably on the nomination. I stand ready to answer any questions specifically

from any Senators about our findings during the background investigations and the hearings that were held on the nomination. I am convinced he will do an excellent job.

Before we reported this nomination, I had an opportunity to discuss the performance in office of this nominee with those who had had personal contact with him and had observed closely his management of this agency. I talked with the head of the State agency in Mississippi, for example, Nick Walters, to get his impressions because he had done an excellent job in our State of managing the rural development program. I have a lot of respect for Nick Walters. He works hard. He is a person of great ability, and I have known him a long time. He had unqualified support and strong words of endorsement of Mr. Dorr in how he had managed this department. He said he was tough minded but fair minded, and he did the job in a way that reflected credit on this administration.

I hope the Senate will vote to invoke cloture on the nomination and then confirm Mr. Dorr as Under Secretary of Agriculture for Rural Development.

I reserve the remainder of our time.

The PRESIDENT pro tempore. Who yields time?

Mr. BURNS. Mr. President, to break the impasse here—I never really got to communicate to my friend from Iowa—I have maybe about 3 minutes of morning business. It would go outside this debate. I do not want to be a part of this particular issue. If you don't want me to, that is quite all right with me. But I just ask unanimous consent to proceed as in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for 3 minutes.

(The remarks of Mr. BURNS are printed in today's RECORD under ''Morning Business.'')

The PRESIDENT pro tempore. Does the Senator from Iowa seek recognition?

Mr. HARKIN. Mr. President, I yield myself 15 minutes. I would appreciate the Chair notifying this Senator when I have consumed 15 minutes of my allotted 30 minutes.

The nomination of Thomas C. Dorr for the position of Under Secretary of Agriculture for Rural Development has been controversial from the outset. It has generated a great deal of concern and opposition and very serious questions. The controversy has continued from Mr. Dorr's nomination in a previous Congress to a recess appointment and then to his nomination in this Congress.

I regret very much so many problems have arisen regarding the nomination of a fellow Iowan. Just as any of us would feel, it is a matter of real pride to me when someone from my State is nominated to a high position in the Federal Government, regardless of party. This is the first time in my 19 years in the Senate and 10 years in the House that I have opposed the nomination of an Iowan to a position in the Federal Government. It gives me no pleasure to do this.

This is not personal. I have no personal acquaintanceship with Mr. Dorr. I met him. He came into my office last year. To the best of my knowledge, prior to that our paths had not crossed—maybe briefly at some point. I have no personal animosity at all toward Mr. Dorr. As I said, I don't know him personally. But the record speaks for itself.

I believe, however, we have a responsibility to review nominees as to whether they meet the minimum standards for the job. As a member of the Committee on Agriculture, Nutrition, and Forestry, I have a responsibility concerning nominations. We all do. I have worked with Chairman COCHRAN and formerly with Senator LUGAR, the former chairman and ranking member, to move nominees through the Agriculture Committee and to the floor fairly and expeditiously. I have done so both as chairman and ranking member, and that has been true of nominees for both parties.

It is important to stress that the Agriculture Committee did not, in this the 108th Congress, hold a hearing on the nomination of Mr. Dorr. Because of the serious concerns and unanswered questions about this nominee, I repeatedly requested that the committee hold such a hearing, as did other members of the committee, but that hearing was not held. The committee did hold a hearing in the preceding Congress but, as I will explain momentarily, that hearing raised a host of issues that remain unresolved to this day. The questions have not been cleared up. In fact, they have multiplied.

It was the responsibility, I believe, of the committee to hold a hearing on Mr. Dorr before it reported the nomination to the full Senate, and the unusual circumstances of this nomination added to the importance of holding that hearing. This is not a minor nomination. The Under Secretary for Rural Development is critically important to family-size farms and ranches and to smaller communities all across America. The responsibilities include helping build water and waste-water facilities, financing decent, affordable housing, and supporting electrical power and rural businesses such as cooperatives. They also include promoting community development and helping to boost economic growth, create jobs, and improve the quality of life in rural America. These are the responsibilities of this position.

Given those responsibilities, one of this nominee's first controversies arose from Mr. Dorr's vision of agriculture, reported in the New York Times on May 4, 1998. Mr. Dorr proposed replacing the present-day version of the family farm with 225,000-acre megafarms, consisting of three computer-linked pods. With the average Iowa farm of about 350 acres, Mr. Dorr's vision calls for radical changes.

I ask unanimous consent that that article from the New York Times be printed in the RECORD.

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

[From the New York Times, May 4, 1998]

FOR AMBER WAVES OF DATA; AFTER THE GREEN REVOLUTION COMES FARMING'S GEEK REVOLUTION

(By Barnaby J. Feder)

MARCUS, IOWA.—There is a haunting prescience to the ''Evolution of Agriculture,'' an old chemical company poster on the wall of Tom Dorr's farm office. It ends in 1981 with the invention of a mobile rig to measure electronically the nutritional value of animal feed—the time line's first mention of a computer.

Seventeen years later, computers have infiltrated every conceivable element of agriculture, influencing what technology-savvy farmers like Mr. Dorr grow, how they grow it and how they market the fruits of their labor.

The terminal beside Mr. Dorr's desk, for instance, links him to DTN, a nationwide agricultural and weather data network. There is also his personal computer and printer, which is part of a local area network connecting five computers and a server in this small clapboard building. Formerly the home of a tenant worker, the office is now the information hub of 3,800 acres of northwestern Iowa prairie where Mr. Dorr and his 11 full- and part-time employees raise corn, soybeans and hogs, sell seed and run a grain elevator that serves his and neighboring farms.

With gross revenue of about $2 million in most years, the Dorr operations rank among the 4 percent of the largest commercial farms that account for 50 percent of the nation's agricultural output. Such commercial-scale farmers are usually among those most active in experimenting with new equipment and management techniques.

To really understand how far things have evolved and get a glimpse of where they might be headed, it helps to stroll past Mr. Dorr's secretary (and her computer), past the bathroom (crowded with three retired computers saved for spare parts), and into the electronics-stuffed lair of Francis Swain, the technology manager.

Mr. Swain, a tall, 27-year-old son of a used-car dealer whose reddish hair is greased back like a 1950's rock-and-roller, describes himself as ''not in love with crops or pigs or cows.'' He represents a new breed of worker, though, whom many big farms will eventually need: an agro-geek with a passion for computers and the information revolution.

In the increasingly global agricultural market, American farmers will come to rely heavily on technology and information systems to compete with nations that have cheaper land and labor, according to experts like Jess Lowenberg-DeBoer, a Purdue University agriculture economist who has studied the adoption of computer-driven farm technology.

And so Mr. Dorr is doing what thousands of other American farmers are doing: using machinery laden with electronic controls and sensors to achieve pinpoint seed spacing, analyze soils for moisture and nutrients, track weather and manage the rates at which fertilizer and pesticides are applied. He has experimented with global positioning via satellites to track exactly where each machine is as it carries out these functions. And come harvest season, still other devices will calculate crop yields in real time.

What sets the Dorr operation apart from most, though, is having an employee like Mr.

Swain assigned to the task of figuring out how to improve and harness the information flow.

Each tractor, pig and farm field is, in Mr. Swain's eyes, simply a source of data that can make the farm more profitable if properly analyzed. The questions that captivate him include how much it would cost to track soil conditions more thoroughly, how yield data from a combine might be correlated with weather data or fertilizer records, and how computer simulations of projected crop growth could be used to fine-tune marketing decisions like what portion of the crop to pre-sell before harvest.

''My dream is not to farm but to own the information company that farmers hook up to for information on logistics, crop data, whatever,'' Mr. Swain said.

Mr. Dorr, 51, who began farming with his father and his uncle in the 1970's, has a love of the soil that Mr. Swain lacks. But Mr. Dorr does not let agrarian sentimentality befuddle his business acumen. The family farm he grew up with was part of an agricultural enterprise that besides livestock and crops, included a feed store and turkey hatchery.

After graduating from Morningside College in Sioux City, Iowa, with a Bachelor of Science in business, Mr. Dorr worked for an educational research company for three years.

That experience exposed him to computers. While traveling for the research company, Mr. Dorr made side trips to visit farmers who were transforming family farms into far larger commercial operations. When he returned to join the Dorr farm, he was convinced of the need to scrupulously log as much information as possible about operations.

Mr. Dorr had already invested more than $20,000 in personal computers and farm management software when he hired Mr. Swain in 1990 as office manager and accountant. ''Fran was ill at ease and less qualified on paper than other candidates,'' Mr. Dorr recalled. But Mr. Swain had studied computer science at Nettleton Business College in Sioux Falls, S.D., while completing the college's two-year accounting program and his references raved about his enthusiasm and organizational skills.

By last year, so much of Mr. Swain's work involved updating and expanding the farm's information technology systems that Mr. Dorr changed his title to technology manager.

Mr. Swain, who has often urged Mr. Dorr to invest more rapidly in cutting-edge technology, occasionally chafes at more mundane tasks like analyzing past weather data to be sure the strains of corn now going into particular fields are likely to have time to mature before harvest.

''His lack of experience in production gets him out into left field sometimes,'' Mr. Dorr said of Mr. Swain's proposals, like his suggestion to set up wireless communications from field equipment to the office so that the costs of pesticides are apportioned to the owners of a rented field as the chemicals are applied. While intriguing, such ideas would typically cost too much or not be reliable enough with current technology, Mr. Dorr said.

Still. Mr. Dorr gave Mr. Swain his new title to encourage him to continue thinking broadly and to make it clear to skeptical old-time farmhands that Mr. Dorr valued Mr. Swain's work.

Bob Kranig is a 56-year-old equipment operator and mechanic who, along with Mike Schwarz, a 38-year-old equipment operator for the Dorr farm, has been the main employee coping with the surge in data gathering. ''Mike and I are intimidated to a point by the new technology,'' Mr. Kranig conceded.

They will have to get over those fears if Mr. Dorr and Mr. Swain are to pursue their vision of a 225,000-acre operation made up of three ''pods,'' each with its own manager but sharing an information system back at farm headquarters. Such an enterprise would be big enough to keep 100-unit trains running to far-away seaports, making the farm likely to receive volume railroad discounts. Such an agricultural factory could also negotiate bargain prices from suppliers and other concessions, like just-in-time delivery.

To really prosper, though, this type of megafarm would need a 21st-century computer network capable of rapidly integrating information that is piling up in various, incompatible forms—as well as other data that so far go ungathered.

Such integration may be an uphill battle for years to come. Researchers have raised questions about just how precise soil samplers, yield monitors and other pieces of today's equipment really are. And internet chat sessions, farm conventions, and plain old coffee shop conversations in rural towns are alive these days with earthy gripes about proprietary product that do not interface with each other and new technology that promises more than it can deliver.

Still, Mr. Dorr clings to his vision of a farm sprawling over thousands of individual fields—many of which might be only partly owned by Mr. Dorr and his relatives, while others could be rented, either for money or for a share of the crop.

His information system would know what was grown in each field in the past and how much it yielded under different growing conditions. It would also know about crucial characteristics of the field like irrigation, drainage and soil.

The system would also have constantly updated information on available labor, machinery and supplies. Operations like storage, marketing and distribution would be tied in, so that the past and the projected profitability of each field would be constantly visible to Mr. Dorr, his employees, landowners and the investors he says would be needed to spread the financial risks of such a big enterprise.

Assembling this digitally enhanced megafarm would require, by Mr. Dorr's and Mr. Swain's guesstimate, at least a $2 million technology investment. Put it all together, though, and one can envision a farm that rearranges planting or harvesting on the fly as weather changes or new sales opportunities arise.

Without such size and information-management capabilities, Mr. Dorr fears that most farms will end up with as little control over their destiny and profitability as those that today raise chickens under contract to giant producers like Tyson and Perdue. In addition, he says, such size and sophistication will be needed to provide the kind of job opportunities that will keep the best and brightest rural youngsters from moving way.

So far, Mr. Dorr and Mr. Swain concede, it has been hard to sell their vision, which Mr. Dorr sees as too risky to pursue on his own. Investment bankers have said the project is too small and the business plan too fuzzy to interest them, and other farmers are hanging back.

Some are merely skeptical. Others are downright hostile to visions like Mr. Dorr's because they see aggressive growth strategies as a threat to the majority of family farms, which are run by part-time farmers who also hold down other jobs. But Mr. Dorr considers such thinking a denial of the inevitable. ''The typical farmer's tendency is to go it alone until it's too late,'' he said.

Yet even Mr. Swain concedes the risks of racing toward a more computerized future. ''About half of all information technology projects fail,'' he said.

And he knows full well that the problem is often the unpredictable human element. Noting that he has software on his Gateway 2000 laptop that keeps fitness records and designs workouts for him, he added, ''The flaw is that it doesn't motivate me to exercise.''

Mr. HARKIN. On another occasion, at a 1999 conference at Iowa State University, Mr. Dorr criticized the State of Iowa for failing to move aggressively toward very large, vertically integrated hog production facilities. The record also shows Mr. Dorr attacking the ISU extension service and harassing the director of the ISU Leopold Center for Sustainable Agriculture. Is this really the attitude and the vision for agriculture and rural communities the Under Secretary for Rural Development ought to bring to the job?

The person in that position also must be responsive and sensitive to the demands of serving America's very diverse citizens and communities. That requirement cannot be overemphasized in a department that has been plagued with civil rights abuses of both employees and clients. Here is what Mr. Dorr had to say about ethnic and religious diversity at that Iowa State University Congress; these are Mr. Dorr's own words on the record:

I know this is not at all the correct environment to say this, but I think you ought to perhaps go out and look at what you perceive [are] the three most successful rural economic environments in this state. . . . And you'll notice when you get to looking at them, that they're not particularly diverse, at least not ethnically diverse. They're very diverse in their economic growth, but they have been very focused, have been very nondiverse in their ethnic background and their religious background, and there's something there obviously that has enabled them to succeed and to succeed very well.

Again, I ask unanimous consent that the transcript of this meeting be printed in the RECORD.

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

COMMENTS BY TOM DORR; TRANSCRIPTIONS OF IOWA TAPE

I've got just a couple of comments, and as one of the few farmers here, I think I'll take an opportunity—I listened to this comment earlier about the ''wow'' statements, that you wanted something to get to the New York Times. I caution you that that happened to me once a couple of years ago when I suggested to me that the appropriate model of a corn soybean farm in Iowa would mesh around 225,000 acre operation in an interview that got the front page of the New York Times business section. It screamed around the world and got back to my hometown, and I am now presently the pariah of Marcus?, so what you wish is what you may get if you're not careful.

My observation though today, that what you're really about, as precipitated by this gracious gift, is you're really trying to find your souls. Some of you have heard me say that before, and I say that in the context that I as a former member of the board of regents, and one who has always had an abiding interest in education, have felt that to some extent, some of the leadership, myself included, have failed the institutions starting back during the ag crisis of the '80s that

particularly that precipitated all of this—in the sense that what actually diverted you from your primary responsibility of teaching and doing research and expected you to develop economic development opportunities that would quickly turn into more growth for the state. And I think that has been a rather misguided approach, not in every case, but I think that that was somewhat of a mistake. And as a result, I think you're really trying to grope with whether or not you are a group of physical scientists or social scientists. In agronomy, I guess I've always assumed that you were physical scientists, but I don't think that's necessarily the case. And I'm not sure—I'm not making judgmental—I'm not sure that's good or bad. You're obviously very very passionate about what you do and so am I. I'm very passionate about what I think we have to be doing in agriculture. My greatest fear in listening to this discussion for the last short day is that, as one of my peers on this panel suggested earlier, when I put it in the context if after 60 years of Triple A or Agriculture Adjustment Act Programs, our farm policy or farm policy governance has literally frozen us in our ability to be creative in our thought processes as it related to production agriculture.

I caution you in the standpoint that the Iowa agriculture rural landscapes are at great risk. They are truly at great risk of becoming barren economic landscapes. And I say this, and I've mentioned this earlier at least in a couple of the groups, and I don't say this from the standpoint of sounding like sour grapes. That's not what it's intended to, but most of you in this institution through the various programs, whether you're a merit employee P and S or an active (?) admission, your salaries and your retirement programs through TIA CREP will leave most of you much better off than most farmers that you think you're trying to advantage out here in the country at the time you complete 30 years of employment in the institution. And as a result, I think it has to be a paramount focus to a more income growth in the Iowa agriculture sector. Quality is fine—it's a laudable goal, but income growth has to be at the bottom of what you're about. And if it's not, then I think we'll be back here several more times trying to figure out what it is.

The other thing that's interesting to me, and I know this is not at all the correct environment to say this, but I think you ought to perhaps go out and look at what you perceive the three most successful rural economic environments in this state. And I'm not talking about those associated with metropolitan areas. But I would submit to you that they're probably the three most successful ones. If they're not the three, two of these are the three, and it would be Carroll County, Sioux County, and Lyon County. And you'll notice when you get to looking at them, that they're not particularly diverse, at least not ethnically diverse. They're very diverse in their economic growth, but they have been very focused and have been very non-diverse in their ethnic background and their religious background, and there's something there obviously that has enabled them to succeed and to succeed very well.

I think we also need to recognize the fact that the change in the hog industry did not occur in a vacuum, and it didn't occur in North Carolina and the South by accident. It occurred because we did not create the opportunities, the investment opportunities and the environment in this state to make it happen. And I submit to you that it would have occurred and it would have occurred with a lot more of our producers being involved in these kinds of enterprises in a much more broad scope had we been more aggressive about determining what was going to make it happen. And I will caution you that this very thing is going to happen in crop production in land management. The tools are in place, you have economists on this staff that understand what I'm talking about, and this will happen. It will evolve into large grain farming operations that if we battle it, if we don't analyze it and facilitate the growth in this, it could be very disheartening.

I think our goal ought to be to turn the state into a vibrant food producing value-added state, but it will not happen that way within the existing structure of production agriculture. So when we look at who we serve, I think in all honesty that if you truly focus on doing good research, good science driven research, and maintaining high pedagogical standards and teaching students, that you're products and your science, your products in terms of your students and your science will serve you most appropriately wherever they may end up at, and probably in a much finer model than you would perhaps suspect.

Thank you.

Mr. HARKIN. Again, should we have as Under Secretary for Rural Development someone who lacks the judgment to avoid uttering such intentionally provocative and divisive remarks? How does this sort of insensitivity serve the urgent need to reverse USDA's poor civil rights record?

I repeat what Mr. Dorr said:

I know this is not at all the correct environment to say this.

Evidently he is saying it is all right to say it, it must be all right to believe it, but you just don't say it publicly in a meeting such as that. In other words, he is kind of saying be careful of where you say it but it is OK to go ahead and believe what he says here, that somehow economic progress equates with lack of ethnic and religious diversity.

Let me also point to a memorandum Mr. Dorr sent to me, in October of 1999, to complain about charges on his telephone bill for the national access fee and the Federal universal service fee. The proceeds from these relatively modest fees go to help provide telephone service and Internet access to rural communities, hospitals, and schools. It just strikes me as very odd that Mr. Dorr would have responsibility for helping rural communities obtain telecommunications services and technology when he was so vehemently opposed to a program that serves that very purpose. This is what he said in that letter, in reference to the national access fee and the Federal universal service fee:

With these kind of taxation and subsidy games, you collectively are responsible for turning Iowa into a State of peasants, totally dependent on your largesse. But should you decide to take a few side trips through the Iowa countryside, you'll see an inordinate number of homes surrounded by five to 10 cars. The homes generally have a value of less than $10,000. This just confirms my ''10 car $10,000 home theory.'' The more you try to help, the more you hinder. The results are everywhere.

What a slap in the face to poor rural people.

I ask unanimous consent that the entire substance of the letter and a memorandum that was sent to me dated 10–8–99 be printed in the RECORD.

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

MEMORANDUM

Date: 10/8/99
To: See Distribution List
From: Thomas C. Dorr
Re: Telephone and TeleCommunication Taxes

Attached to this memo-fax is an information insert I received with my recent long distance billing. The total tax for this statement is 14.65%. This is outrageous, especially when you consider that government has had minimal influence on the evolution of the telecommunications technology.

The monthly National Access Fee per business line of $4.31 in conjunction with the 4.5% ''Federal Universal Access Fee'' frequently exceeds the total monthly phone usage charges, which are necessary to have emergency phone lines at our individual farm and hog sites. Those taxes don't include the Federal and State excise and sales taxes.

These taxes are confiscatory. School and local government systems in Iowa alone have been subsidized so long without commensurate performance expectations that a large number have slipped into a slothful state far exceeding mediocrity. They probably don't receive 30% of these taxes, and they surely don't need them.

With these kinds of taxation and subsidy games, you collectively are responsible for turning Iowa into a state of peasants totally dependent on your largesse. This is unacceptable.

I am sure my ranting won't change your approach to maintaining a constituency dependent on government revenue. But should you decide to take a few side trips through the Iowa countryside, you'll see an inordinate number of homes surrounded by five to ten cars. The homes generally have a value of less than $10,000. This just confirms my ''10 car $10,000 home theory''. The more you try to help the more you hinder. The results are everywhere.

I strongly suggest you take time to read Thomas Friedman's new book ''The Lexus and the Olive Tree'', then ask yourselves what really makes sound governance policy. I don't think confiscatory tax initiatives count. It is a cinch we aren't getting wealth in Iowa.

IMPORTANT INFORMATION ON SERVICE FEES

Recent regulatory and industry changes will affect two charges on your current invoice. The Federal Communications Commission recently approved larger universal service subsidies for schools and libraries.

Like other carriers, MCI WorldCom℠ collects its contributions for the universal service fund by assessing a fee on customer invoices. In order to recover the cost of increased universal service contributions, beginning with this invoice, the monthly Federal Universal Service Fund charge (FUSF) is calculated at 4.5% of regulated interstate and international billing, reflecting an increase of 0.4%.

Also effective with this invoice, the monthly National Access Fee (NAF) increased to $4.31 per Business Line, $0.48 per Business Centrex line, and $21.55 per ISDN PRI or Supertrunk line. The NAF results from monthly per-line charges imposed by many local service providers on long distance carriers for connections to local telephone networks.

As a valued customer, you will continue to be notified of any future changes that affect what you pay for service.

Thank you for using the MCI WorldCom program. We appreciate your business and the opportunity to serve you.

Mr. HARKIN. Mr. President, Mr. Dorr was given every opportunity but could not explain this broad attack against helping rural communities. It seems clear that Mr. Dorr was degrading the very people and the very rural communities he is nominated to serve at USDA. He was making light of lower income Americans in rural communities who are struggling to make a living and get ahead. And he is saying that it is counterproductive to try to help. He said:

The more you try to help the more you hinder.

In testimony before the committee, Mr. Dorr admitted that he had gotten federally guaranteed student loans. He admitted that he had gotten very generous farm program payments and that these did not seem to hinder him at all. But to try to help poor people who live in $10,000 homes, that hinders them, you see. Talk about insensitivity.

This is a letter he sent to me. In that letter, he was complaining about the taxation for the Federal universal service fee. Do you know what the bill was? It was $4.74. He is saying it is confiscatory. On the other page, here is the Federal universal service fee—3 cents out of a $21.27 bill, and he is complaining about it. This is someone who is going to be the Under Secretary of Rural Development?

To do any job well, one has to believe in its value. Yet the very purposes of USDA's Rural Development programs are an anathema to the beliefs and philosophy of Mr. Dorr.

Lastly, for any nominee the Senate has a responsibility to examine their financial backgrounds and dealings. Secretary Veneman put it perfectly when she wrote to me:

Any person who serves this Nation should live by the highest standards.

Let us see if Mr. Dorr meets this standard.

Mr. Door was a self-described president and chief executive officer of Dorr's Pine Grove Farm Company of which he and his wife were the sole shareholders. In that position as president and CEO, Mr. Dorr created an exceedingly complex web of farming arrangements.

This is what it kind of looks like. I will not try to explain it. It is very complex and very interlocking. But the operations included land in two trusts that were set up in 1977. For a time, Tom Dorr through his company, Dorr's Pine Grove Farm, the major company, farmed the land held in these trusts under a 50–50 share lease with half of the crop proceeds and half of the farm program benefits going to Dorr's Pine Grove Farm and half to these trusts. This is what is normally called a crop share arrangement.

Then, beginning in 1988, Mr. Dorr filed documents with the USDA stating that his operation had changed. He was no longer farming on a crop share basis, but he was going to custom farm, saying that each trust had a 100-percent share in the crop proceeds and were entitled to receive 100 percent of Federal farm program benefits.

Tom Dorr, acting through Dorr's Pine Grove Farm, still farmed the land as before, but he had claimed and stated and signed his name on a document that the arrangement had become a custom farming arrangement.

This is very important. He knowingly signed that document.

At some point, one of the trust beneficiaries, Mr. Dorr's brother, Paul Dorr, began to question why the custom farming fees were so high. Paul Dorr taped at least two conversations with his brother, Tom Dorr, that corroborated his suspicions that Tom Dorr was engaged in misrepresentation. That tape was made public. Mr. Dorr admitted that that was his voice on the tape. Paul Dorr contacted the Farm Service Agency and persisted in his request for an investigation.

Finally, in the spring of 1996, the FSA conducted a review of the Melvin G. Dorr Irrevocable Trust. The FSA found that the forms filed and signed by Thomas Dorr for the 1993, 1994, and 1995 crop-years misrepresented the facts. The trust was required to repay $16,638 to the Federal Government.

Let us fast forward.

In the fall of 2001, the USDA Office of Inspector General conducted a further review of Mr. Dorr's affairs. The Office of Inspector General asked the Farm Service Agency to review another trust, the Harold E. Dorr Irrevocable Family Trust. Once again, the trust was found to be in violation of program rules because of the misrepresentation on forms signed by Thomas Dorr. The trust had to pay USDA a total of $17,151.87 in program benefits and interest for crop-years 1994 and 1995.

Investigations by the USDA Office of Inspector General and the Farm Service Agency determined that for the years examined, the forms signed by Tom Dorr misrepresented the trusts' shares in the crop proceeds. FSA found that in reality the land in both of these trusts was farmed on a 50–50 crop share basis and not on a custom farming basis. The trusts were, therefore, not eligible for the 100-percent share of program benefits because Tom Dorr had misrepresented the actual farming arrangement.

Mr. Dorr would have us believe that either the misrepresentations were innocent or that there were no misrepresentations. But the record shows that he knowingly carried on a crop share lease arrangement between Dorr's Pine Grove Farm Company and each of the trusts even as he represented to the Farm Service Agency that it was custom farming and not crop share leasing.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator's time has expired.

Mr. HARKIN. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. HARKIN. I yield myself an additional 5 minutes.

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

Mr. HARKIN. Madam President, in the telephone conversations that Paul Dorr taped, Tom Dorr admitted that the so-called custom farming arrangement was, in fact, a crop share. This is in a telephone conversation in which Mr. Dorr said:

Besides those two machine charges, everything is done on a 50–50 normal crop share basis. It always has.

These are not my words; these are Tom Dorr's own words on tape.

I ask unanimous consent that the transcript of that tape be printed in the RECORD.

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

TRANSCRIPT OF AUDIO TAPE PROVIDED UPON REQUEST FROM THE IOWA STATE FSA OFFICE, IDENTIFIED AS: COPY OF TAPE LABELED ''EXCERPTS FROM CONVERSATION BETWEEN TOM DORR AND PAUL DORR 6/14/95''

The parties are identified as Person 1 (assumed to be Paul Dorr) and Person 2 (assumed to be Tom Dorr).

The following are excerpts from a telephone conversation that was recorded on June 14, 1995, occurring between Tom Dorr and Paul Dorr.

PERSON 1: I, I guess I'd like to know as a beneficiary what . . . you know, I know, I understand your desire to keep this all out fr . . ., in the government's eyes, um, but I still think there should be some sort of explanation as to how these, you know exactly how this percentage, allocation is broken out, how its, how its applied each year.

PERSON 2: 50/50. I charge the Trust their half of the inputs, not the machine work. And I charge the, I charge the, I take that back, the only machine charge, the machine charge that I have charged always is $12.50 an acre for combining. That was an arrangement that was entered into when dad and Harold were still alive because of the high cost of combines.

PERSON 1: Yeah . . .

PERSON 2: Beside from that, uh, I take that back, and they also, and we have always charged the landlords a nickel a bushel to haul the grain into the elevator.

PERSON 1: Um Hmm . . .

PERSON 2: Beside those two machine charges everything is done on a 50/50 normal crop share basis, it always has. And, and, and frequently, quite frankly, I've, I've kicked stuff in, or, you know, if there is a split that isn't quite equal I always try to err on the side of the, on the side of the Trust. So, that's, that's the way its been, that's the way it always has been and that's the way these numbers will all resolve themselves if somebody wants to sit down and go through them that way.

PERSON 1: It, this was all done that way in an effort to . . .

PERSON 2: . . . avoid the $50,000 payment limitation to Pine Grove Farms.

PERSON 1: And. . . to, it is to your benefit to your other crop acres . . .

PERSON 2: . . . that's right . . .

PERSON 1: . . . that, that um, this arrangement is set up in, in such a fashion?

PERSON 2: That's correct.

PERSON 1: Uh, do we, as a Trust, um, have any risk if the government ever audits such an arrangement? Or, was it done your saying back when it was legal? Is it still legal?

PERSON 2: I have no idea if its legal. No one has ever called me on it. I've done it this way. I've clearly kept track of all paper work this way. And, uh . . .

PERSON 1: I, I understand how it works, now . . .

PERSON 2: I have no idea. I suspect if they would audit, and, and somebody would decide to come in and take a look at this thing, they could, they could probably if they really wanted to, raise hell with us. Yep, you're absolutely right. Uh, and I'm trying to find out where I've overcharged at.

PERSON 1: Well, I, I don't know what the extension service includes in their, in their, um, uh, estimated figure on, on machinery expense.

PERSON 2: That, that, that figure, I mean if you look at that figure, and I believe, and I'd have to go back and find it, but I know that I discussed this with the trustees and I'm fairly certain that its in one of your annual reports. Uh, that custom fee actually is not a custom fee. That's crop rental income to me. That's my share of the income. I mean if you just sat down and, and, and . . . (5 second pause with music in the background) excuse me . . .

PERSON 1: That's ok.

PERSON 2: Uh, what actually happened there was way back in, uh, perhaps even 89, but no, no that was in 90 because that doesn't show up until then, Either 90 or 91, uh, I refiled the way the farm, the Trust land both for the Melvin Dorr Trust and the, the uh, Harold Dorr Trust are operated with the ASCS to, quite frankly, avoid minimum payment limitations. OK?

PERSON 1: Right

PERSON 2: And I basically told the ASCS and reregistered those two operations such that they are, uh, singularly farm operations on their own, OK?

PERSON 1: OK

PERSON 2: And I custom farm it. Alright, so how are you going to custom farm it? The reason I did it was, was to eliminate any potential, uh, when I could still do it at that point, of, of the government not liking the way I was doing it. I knew what was coming. I anticipated it the same as I did with proven corn yields way back in the 70's when I began to prove our yields and got basis and the proven yields up. I transferred these out when it was still legal and legitimate to do so and basically they stand alone. Now, obviously I'm not going to go out here and operate all this ground and provide all this management expertise singularly, uh, for the purpose of, of, of doing it on a $60 an acre custom fee basis. Subsequently, what's happened is, the farm, I mean the, the family Trust pays all of its expenses and then we reimburse it and it sells all the income, and it sells all the crop, and it reimburses us with the 50/50 split basis.

PERSON 1: I, I, I remember vaguely something being discussed about that, I'll have to go back to the file. . .

PERSON 2: . . . that's exactly what's going on (unintelligible) . . . those custom fees the way they are . . .

PERSON 1: . . . and then to determine, um, that, that was, again if that was in writing to us beneficiaries, I guess I missed that and I'll look for that again. Um . . .

PERSON 2: Even if it wasn't I know that that was clearly discussed with the trustees. The beneficiaries really had nothing to do with it.

PERSON 1: OK, well, well, I appreciate your correcting me on the interest and, uh, allocating those incomes to those different years. That does make a difference with that income. I think the custom fees, uh, when I took a look at that one, and I, you know, I just started looking at this in the last 6 weeks. When I took a look at that last figure, uh, and looking back on in the file, it may not hurt for you to remind everybody, um, maybe even in the annual report. . . .

PERSON 2: I don't, I don't, really want to tell everybody, not because I'm trying to hide the custom work fees from anybody, but because I don't want to make any bigger deal out of it than I have to, relative to everybody knowing about it, including the government.

END OF RECORDING.

Mr. HARKIN. Madam President, again he said on the tape,

Everything is done on a 50–50 normal crop share basis. It always has.

He says that to his brother on the tape, but he says to the FSA, to the taxpayers of America: No, it is not. I am custom farming.

What would be the purpose of misrepresenting these arrangements? Mr. Dorr's own statements show the motives in this telephone call. As Tom Dorr said to his brother, the bogus custom farming arrangements were set up to ''avoid the $50,000 payment limitation to Pine Grove Farms.''

Again, my fellow Senators, these are not my words. These are Tom Dorr's own words—his own words. He admits in his own words that he misrepresented to the Federal Government his farming arrangements, and he did it to get around payment limitations.

There was the payment limitation connection. A part of the farm program payments for land in these two trusts should have been paid directly to Dorr's Pine Grove Farm under a normal crop share arrangement. But they would have counted against Mr. Dorr's payment limitation. But instead, because of Mr. Dorr's misrepresentations, the USDA payments that should have gone to him were funneled through the trusts and not counted against his payment limitations.

Indeed, the FSA review of Dorr's Pine Grove Farm Company found that Mr. Dorr's misrepresentations ''. . . had the potential to result in Pine Grove Farms receiving benefits indirectly that would exceed the maximum payment limitation.''

Federal law provides criminal penalties for knowingly making false statements for the purpose of obtaining farm program benefits. The USDA Office of Inspector General referred the Dorr matter to the U.S. Attorney for the Northern District of Iowa.

In February of 2002, that office declined criminal prosecution due to statute of limitations issues. We may hear some claim that the Office of Inspector General exonerated Mr. Dorr. That simply is not so. The OIG simply closed the case after the U.S. attorney decided it could not proceed because the statute of limitations had run.

Is this the rule by which we say to someone they can now get a position in the Federal Government? You tried to cheat the Federal Government out of money, you got caught, you had to pay it back, and you didn't get prosecuted because the statute of limitations had run. That is OK, you can take a position in the Federal Government.

Based on the seriousness of the violations involved, I believe it was the responsibility of the committee to exercise due diligence regarding other parts of his complex farming arrangement and to take a look at some years that had not been involved in the FSA and OIG investigations. Shortly after the March 2002 nomination hearing, Senator MARK DAYTON sent a letter dated March 21 asking for information on the various financial entities from 1988 through 1995, 1988 being the year in which he first changed or said he changed his operation. I wrote Secretary Venenman on May 17, 2002, and on June 6, 2002, seeking a response to the committee's questions.

We received some responses but critical questions remained unanswered and new questions arose. The materials provided in June show that over $70,000 in farm program payments had been received by the two trusts from 1988 through 1992 under, apparently, the very same type of misrepresentation that was found in later years. Each time the USDA provided the committee with some of the requested information that turned up new problems. Again, we tried to get to the bottom of his complex financial dealings. We know the crop shares were misrepresented for two of the entities but we did not have sufficient information about the others, so the committee requested additional documents from USDA. We asked the nominee additional questions. These were reasonable requests pertaining to valid questions. Secretary Venenman made clear in her letter back to the committee that neither the Department nor the nominee would cooperate with or provide any more information to the committee.

I ask consent that a letter from the Congressional Hispanic Caucus dated May 22, 2003, strongly opposing this nominee be printed in the RECORD.

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

U.S. CONGRESS,
Washington, DC, May 22, 2003.

Hon. THAD COCHRAN,
Chairman, Committee on Agriculture, Senate Office Building, Washington, DC.

Hon. TOM HARKIN,
Ranking Member, Committee on Agriculture, Senate Office Building, Washington, DC.

DEAR CHAIRMAN COCHRAN AND RANKING MEMBER HARKIN: On behalf of the Congressional Hispanic Caucus, we write to express our continued opposition to the confirmation of Thomas Dorr for Undersecretary of Agriculture for Rural Development. Furthermore, we urge that Mr. Dorr's confirmation process not bypass the required hearings necessary to provide a full accounting of Mr. Dorr's very troubling views on agriculture and his equally upsetting stated views on racial diversity in America.

This opposition is not arbitrary, but based on reasonable concerns. Our opposition is based on Mr. Dorr's vocal stances on his vision of farming and his resistance to sustainable agriculture. One of the biggest threats to independent producers, farm workers, and rural communities is the growing corporate control of the nation's food production system. Undersecretary Dorr's vision of farming

is one of 225,000 acre operations—one farm for every 350 square miles. This is 656 times the size of the average farm. Such a vision is antithetical to a broader vision of broad-based and equitably distributed growth for all of rural America.

In addition, in comments made publicly and reported in the Des Moines press, Mr. Dorr believes that diversity of race, ethnicity, and religion detract from economic productivity. He claimed in a meeting in 1999 that three of Iowa's more prosperous counties do well economically because ''they have been very non-diverse in their ethnic background and their religious background.'' These comments are puzzling, and raise concerns about his racial sensitivity.

The Undersecretary of Rural Development must support a viable and equitable vision for our rural communities. Mr. Dorr's opposition to sustainable agriculture programs, support for corporate control of farms, and his contention that economic prosperity can be contributed to lack of ethnic and religious diversity are the worst possible answers to the economic, social and environmental problems facing farm workers and their communities in rural America. Based on Mr. Dorr's background and his tenure at the U.S. Department of Agriculture, it is easy to understand why both civil rights and farmer interest organizations have opposed him, his extreme corporate views and racial insensitivity.

The Congressional Hispanic Caucus, Latinos, farmers, farmworkers, and farmer organizations throughout the country oppose the confirmation of Thomas Dorr. What we need are USDA officials who represent family farmers, farmworkers, and sensible farm policies. Farmers from his own state and from throughout the country oppose his confirmation. This opposition may explain why President Bush found it necessary to initially appoint Undersecretary Dorr through a recess appointment rather than allowing his nomination to move through a transparent and formal process in the US Senate. Last, the appointment of Mr. Dorr does little to improve the image of an agency plagued with civil rights violations and class action lawsuits from minority farmers.

For all of these reasons, we strongly oppose the confirmation of Mr. Thomas Dorr and strongly urge that his views and tenure at USDA be explored in confirmation hearings.

Sincerely,

THE CONGRESSIONAL HISPANIC CAUCUS.

Mr. HARKIN. I also have a letter from a number of groups dated October 8, 2003, representing family farmers and farm workers across America opposed to this nominee. I ask it be printed in the RECORD.

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

OCTOBER 8, 2003.

DEAR SENATOR, The undersigned organizations are dedicated to promoting social, environmental and economic justice throughout rural and urban America. We are writing to ask you to vote against the nomination of Thomas Dorr as USDA Undersecretary for Rural Development when it comes to the Senate floor. This nomination, now more than two years old, has received on-going, widespread grassroots opposition.

In August 2002 President Bush appointed Mr. Dorr to the USDA in order to avoid the certain rejection of this unsuitable nominee by the full Senate. His recess appointment followed the Senate Agriculture Committee's vote of no confidence when they released his nomination without recommendation. Earlier this year, the Senate Agriculture Committee, without a hearing, sent the nomination to the Senate floor.

We object to Thomas Dorr's nomination for many reasons. First, Mr. Dorr deliberately misrepresented his farming operations structure to order to cheat the U.S. government and circumvent payment limitations. On the morning of the Senate Agriculture Committee hearing on his nomination in March 2002 the Des Moines Register published excerpts from a taped conversation between Mr. Dorr and his brother. In this conversation, Mr. Dorr stated that he had misrepresented the structure of his farming operations to ''quite frankly avoid minimum payment limitations.'' The U.S. government required he return $17,000 in 1995 after a review of his Iowa farm operation.

In 2002, in the wake of the Senate Agriculture hearing and further investigation, the Dorr family trust was obligated to repay another $17,000. During the August 2002 Senate Agriculture Committee meeting, Senator Harken raised concerned that according to materials provided in June, two Dorr family trusts received some $65,000 in farm program payments from 1988 through 1993. These payments apparently fall under the very same circumstances that led to the total repayment of $34,000 for 1994 and 1995. Nevertheless, the USDA continues to withhold further records of Mr. Dorr from the Committee and the public.

Second, Thomas Dorr's vision for increased concentration in U.S. agriculture and the consolidation of many family farms into singular ''megafarms'' is counter to effective rural development and the promotion of family farm and ranch-based agriculture that is at the foundation of healthy rural economies and agriculture communities. He is also on record as strongly opposing sustainable agriculture, including the cutting-edge work of the Leopold Center at Iowa State University.

Third, Mr. Dorr has made comments tying rural economic development with lack of ethnic and religious diversity. Diversity is increasing in our nation's rural communities, and we are concerned that Mr. Dorr's perspective will prevent him from effectively meeting the needs of minority populations. As Senator Harkin said during the Senate Agriculture Committee Hearing on August 1, how does Mr. Dorr's insensitivity fit the urgent need to reverse the USDA's poor civil rights record?

Fourth, Mr. Dorr strengthened our opposition to his nomination with his testimony before the Senate Agriculture Committee in March 2002 during which, in a letter to Senator Harkin written by Mr. Dorr himself, he revealed his disdain for rural residents who utilize government programs. In this letter, Mr. Dorr complained about a miniscule tax on his telephone service saying he believed government payments destroyed the initiative of beneficiaries. This seriously calls into question Mr. Dorr's ability to fairly administer programs providing millions of dollars in federal loans and grants to those he is mandated to serve, but about whom he has made antagonizing statements.

Mr. Dorr's track record in the USDA since his recess appointment has not mitigated our objections. On Friday May 16, 2003, Mr. Dorr testified before the Senate Appropriations Subcommittee on Agriculture and Rural Development. As part of the budget request for FY 2004, he stated that he views his agency as the ''venture capitalists'' of rural America, instead of lender of last resort, its primary historical mission.

It is not in our nation's best interest to have an Undersecretary for Rural Development who has admitted misuse of U.S. government programs, antagonized those he would be charged to serve, and who envisions a structure of agriculture that would further depopulate our rural communities. The Undersecretary for Rural Development should support policies that ensure thriving and viable rural communities and uphold USDA standards. This person should also believe in the government programs he administers.

The undersigned organizations remain concerned about Mr. Dorr's vision, his current USDA record, and the USDA's failure to respond to pending questions from the Senate Agriculture Committee. We strongly urge you to vote against Mr. Dorr's nomination.

Mr. HARKIN. I have a letter from the Black Caucus expressing deep concern about this nomination and pointing out: Before moving forward with the nomination, we urge you to carefully consider the concerns we have outlined here, ''only when all parties are satisfied should he be given a vote.'' I ask unanimous consent that letter be printed in the RECORD, along with a letter signed by 44 Senators, dated June 24, 2003, to Majority Leader FRIST, basically saying they are opposed to going ahead with this nomination until one, the nominee furnishes requested information, and two, until a hearing under oath is held on Mr. Dorr's nomination according to committee rules and normal practice.

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

U.S. SENATE,
Washington, DC, June 24, 2003.

Hon. BILL FRIST,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: We write to express our deep concern about the nomination of Thomas C. Dorr as Under Secretary for Rural Development and member of the Commodity Credit Corporation board at the Department of Agriculture. The nomination was reported from the Committee on Agriculture, Nutrition and Forestry on June 18.

From the outset, Mr. Dorr has been a highly controversial nominee, due in part to his insensitive and divisive remarks concerning ethnic and religious diversity, his disparaging comments about low income rural Americans and his advocacy of huge megafarms at the expense of family farms. Accordingly, the Congressional Hispanic Caucus opposes Mr. Dorr's confirmation and the Congressional Black Caucus has expressed ''deep concern'' about the nomination.

Of critical importance is evidence that Mr. Dorr signed and submitted documents to the Department of Agriculture in which he misrepresented his farming arrangements with two family trusts for the purpose of evading statutory limitations on the amount of farm program payments he could receive. In fact, Mr. Dorr specifically stated in a conversation with his brother that he had set up the arrangements to ''avoid a 50,000-dollar payment limitation'' to his own farm corporation. The misrepresentations, made by Mr. Dorr on behalf of the trusts, were a necessary part of his plan to evade payment limitations. When USDA discovered the misrepresentations, it required the trusts to make restitution to the federal government of nearly $34,000. In addition, the evidence showed that USDA had paid out over $70,000 in earlier years in the same manner and under the same arrangements that USDA had found improper and which led to the required $34,000 payment. USDA failed to investigate these payments, but they raised

additional doubts about Mr. Dorr's dealings with USDA, including those through other parts of his large and complex farming operations.

The Agriculture Committee has a responsibility to investigate these matters as part of its examination of the fitness of this nominee to serve. In the previous Congress, the Committee sought unravel the complicated web of Mr. Dorr's financial dealings with USDA. A hearing was held in February of 2002, but it raised more questions than it answered, including disturbing new issues about Mr. Dorr's truthfulness and veracity in sworn testimony to the Committee. The nominee and the administration rebuffed subsequent efforts by the Committee to obtain information that would have addressed these very serious questions pertaining directly to Mr. Dorr's honesty and integrity. Despite these unresolved problems, the nominee received a recess appointment in August of 2002.

Mr. Dorr was renominated for the position early this year. Despite repeated requests, the current Chairman of the Agriculture Committee has refused to hold a hearing on the serious issues involving Mr. Dorr's nomination, even though this is a new Congress with many new members of the Agriculture Committee, it is a new nomination and there are substantial concerns about Mr. Dorr's performance in his recess appointment. The nominee and the administration continue to stonewall reasonable efforts and requests intended to resolve the very serious unanswered issues about Mr. Dorr's fitness as a nominee for high federal office.

Indeed, during the June 18 Committee business meeting at which Mr. Dorr's nomination was reported, the Chairman would not even yield to allow the minority to debate the nomination or offer a motion for a hearing—contrary to normal practice and the Chairman's previous commitment on the record that the minority would be allowed to debate the nomination. A request for as little as three minutes to speak was denied.

Under the circumstances, we are opposed to any action on the Senate floor pertaining to the nomination of Mr. Dorr until such time as 1) the nominee furnishes requested information that would clear up serious questions about his honesty and integrity in financial dealings with USDA and his truthfulness and veracity in sworn testimony to a Senate Committee and 2) a hearing under oath is held on Mr. Dorr's nomination according to Committee rules and normal practice.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 2003.

Hon. THAD COCHRAN,
Chairman, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC.
Hon. TOM HARKIN,
Ranking Member, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC.

DEAR SENATORS: At the request of members of the Congressional Black Caucus, I am providing you with a copy of a letter which outlines the reservations many of us have regarding the nomination of Thomas Dorr for the Undersecretary of Rural Development at United States Department of Agriculture.

Please find the enclosed letter for your information. If additional information is required, please contact me.

Sincerely,

BENNIE G. THOMPSON,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 23, 2001.

Hon. TOM HARKIN,
Ranking Member, Committee on Agriculture, Nutrition, and Forestry, Russell Senate Office Building, Washington DC.

DEAR SENATOR HARKIN: We are writing today to register our deep concern regarding the proposed nomination of Tom Dorr for the Undersecretary of Rural Development at the US Department of Agriculture. Recent developments have cast doubt upon the Mr. Dorr's ability to serve all American farmers in a way that is sensitive to their needs and struggles.

In particular, we are disturbed by recent remarks attributed to Mr. Dorr regarding ethnic diversity and economic development. On May 10, the DesMoines Register quoted Mr. Dorr as saying the following:

''This is not at all the correct environment to say this, but I think you ought to perhaps go out and look at what you perceive the three most successful rural economic environments in this state . . . you'll notice when you get to looking at them that they're not particularly diverse, at least not ethnically diverse. . . . There's something there obviously that has enabled them to succeed very well.''

Given the past record of the United States Department of Agriculture on matters of ethnic diversity and civil rights, we are shocked to learn that the proposed nominee would express the belief that ethnic diversity is an impediment to economic growth. Mr. Dorr's nomination for a position that would require him to work in counties with extensive ethnic diversity makes it difficult for us to understand, much less reconcile ourselves to, such seemingly insensitive statements.

The Congressional Black Caucus has long worked to ameliorate USDA's historic bias against minority farmers and to improve the capacity of USDA to work with minority and economically disadvantaged farmers. Given the ongoing efforts that many members of this caucus have made in this regard, it is possible, even likely, that to confirm Mr. Dorr as the Undersecretary for Rural Development without a deeper investigation into his sentiments regarding ethnic diversity would send the message that the Administration lacks an adequate commitment to civil rights and minority farmers.

Additionally, we have reservations about reports that Mr. Dorr has proposed that the future of American farming lies in megafarms of 225,000 acres. As the American agricultural sector becomes increasingly concentrated and mechanized, small and medium size farms are already finding it difficult to compete with larger and more powerful agricultural operations and interests. In recent decades small farmers, especially minority farmers, have slowly disappeared as our agricultural system has increasingly become dependent upon a small number of large farms.

As large farms have gained marketshare, there has been no commensurate improvement in the fortunes of small and medium farmers. If they are able to stay in business at all, many of these farmers are forced to fight for an ever dwindling share of the agricultural market. In addition, those who are unable to maintain the economic viability of their farms find themselves faced with limited off-farm employment and educational opportunities.

Rather than accepting the demise of the small farmer as a historical inevitability, it is critical that the Department of Agriculture seek ways in which to harness new and creative means by which to ensure that farms of all sizes can flourish. The future of rural America need not reside only in ever increasing economies of scale and market concentration. Rural America faces struggles that go considerably beyond the fields. Rather, it faces issues of crumbling infrastructure, lack of planning capacity, outmigration of youth, and a growing digital divide between urban and rural communities. Any policy for rural America which does not recognize the interplay of these many complex and intersecting concerns does rural America injustice.

As you move forward with the consideration of the nomination of Mr. Dorr for the Undersecretary of Rural Development at USDA, we urge you to carefully consider the concerns that we have enumerated here. In particular, we urge you to delay confirmation until you have an adequate satisfaction that Mr. Dorr has the requisite expertise and sensitivity to enable him to address the broad range of needs and issues facing rural America, particularly issues relating to ethnic diversity and small farms.

Sincerely,

THE CONGRESSIONAL BLACK CAUCUS.

Mr. HARKIN. How much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. COCHRAN. I am pleased to yield 12 minutes to the distinguished Senator from Iowa, Mr. GRASSLEY.

Mr. GRASSLEY. Madam President, we have heard about the past and Tom Dorr. I will speak about the present and the future because all the statements about the past are not in any way reflected in the year and a half that he served as Acting Under Secretary.

Madam President, I rise this morning to support the confirmation of Under Secretary Thomas Dorr.

I know this man. I know what he stands for. I know what he has accomplished. Tom Dorr is a fourth generation ''dirt under the fingernails'' family farmer. He is a man of vision, a successful farmer and business operator. He possesses outstanding financial and business expertise. He is a community leader and person of character. He is one of the best, in my opinion, thinkers on rural policy issues.

I respect what he has done with USDA's Rural Development mission area. USDA's Rural Development is one of the most vital mission areas in the U.S. Government for rural areas of this country, like those of my hone State of Iowa.

Rural America is home to 65 million Americans. USDA's Rural Development implements programs that aid in the development of the infrastructure, and provide assistance for housing and business development opportunities essential to rural America.

This position requires a leader and manager with vision, foresight, and leadership skills. President Bush appointed such a leader over 15 months ago. President Bush wants Tom Dorr confirmed to that position in order that he may continue to provide him guidance.

Because of his recess appointment, we have a track record by which to judge Tom. Tom has served 15 months as the Under Secretary for Rural Development. I, as have many of you,

have heard from not only Secretary Veneman and others at USDA of Mr. Dorr's accomplishments, but also from career staff, and groups who originally had concerns. They talk about his leadership, his vision, his intellect, and most importantly, his commitment to rural America. When I hear of comments like this from his peers and those who work with him, I take particular note. Let me illustrate some of the results that have been brought to my attention.

No. 1, he expedited the release of $762 million of water and wastewater infrastructure funds provided in the 2002 farm bill in just 3 months.

No. 2, he led the effort to complete the rulemaking process in order that the $1.5 billion broadband program could begin taking applications this year. He believes that if Americans are to live locally and compete globally, that it is as imperative to wire the country for technology access as it was to electrify it over 60 years ago.

No. 3, in order to facilitate the review and announcement of the $37 million in value-added development grants, he is using private-sector resources to expedite the process.

No. 4, in order to deliver the financial grants authorized through the Delta Regional Authority, he helped develop and get signed a memorandum of understanding between Rural Development and the Delta Regional Authority. This will allow Rural Development to assist in delivering joint projects at no added cost to the DRA.

No. 5, he facilitated the development of a memorandum of understanding, signed last June by Secretaries Veneman and Martinez, between the Department of Agriculture and the Department of Housing and Urban Development that is focused on better serving housing and infrastructure needs.

No. 6, he has developed a series of initiatives with HUD that will allow Rural Development to more cost effectively meet the housing needs of rural America. These have allowed the Department to provide greater access to housing for all rural Americans, but especially minority rural Americans in fulfillment of the President's housing initiative.

No. 7, he has initiated a review of the Multi Family Housing program. This includes the hiring of an outside contractor to conduct a comprehensive property assessment to evaluate the physical condition, market position, and operational status of the more than 17,000 properties USDA has financed, all while determining how best to meet the needs of the underhoused throughout rural America.

No. 8, he has initiated a major outreach program to insure that USDA Rural Development programs are more easily made available to all qualified individuals, communities and rural regions, and qualified organizations.

Although this is an incomplete list of his accomplishments, it is easy to see that Under Secretary Dorr has done a great job in the short 15 months that he has served at Rural Development. Why folks want to let him go now is beyond me.

I have known Thomas Dorr for many years and expected this kind of performance. I have also been very impressed with his ability to articulate a vision for rural America, when he appeared before my Senate Finance Committee in August, representing President Bush's programs.

In addition, I am not the only person that has been impressed by Tom's work at USDA. Listen to these testimonials:

> Secretary Dorr has been an invaluable resource in helping us build new and complementary relationships within and without USDA, the 1890's and farmers in distress.

That is a quote from Dr. Clinton Bristow, chair of the Council of 1890 Presidents and president of Alcorn State University.

> Under Secretary Dorr has been the first person in this position in several years to creatively tackle the tough problems facing Multi-Family Housing at USDA Rural Development.

That is a quote from Dr. Clinton Jones, senior counsel, House Financial Services Subcommittee on Housing and Community Opportunity.

Clearly, impartial leaders are impressed with Tom Dorr's job performance.

Tom Dorr has worked as a dedicated public servant for many years in our home State. Tom Dorr served on the Iowa Board of Regents for all of Iowa's universities. This speaks volumes about Tom's ability and character. Tom also served as a member of the Chicago Federal Reserve Bank Board of Directors for two complete 3-year terms, the maximum allowed. Tom also served as an officer and director of the Iowa and National Corn Growers Associations in the beginning stages of the push for ethanol and renewable energy.

Under Secretary Dorr has done an exemplary job at USDA. No one denies this. This is no surprise to those of us that know him or have worked with him in the past. The only thing that has come as a surprise, related to Tom's service, are the rumors that have been generated to undermine Tom.

Due to my great distaste for perpetuating false accusations, I have great reluctance even addressing these malicious points, but because of the fact that these issues have been raised, I will quickly address them.

The first false accusation: There is an issue with farm program payments to a family trust associated with Tom's farming operation. Tom's father and uncle each established a trust in the late 1970s to insure the family farming operation continued, and more importantly that Tom or any of his eight siblings and his uncle's five children might also farm if they wished.

When established, the trusts and the farm operating company were consistent with the provision of the farm bill. However, with the change of farm bills, there were questions raised whether the operations exceeded payment limitations. Rather than incur the legal costs to challenge to defend their structure, which would have been more costly, the family trust repaid $17,000 and changed their farming operations as recommended by the county FSA committee.

Further, and as a result of his nomination process, a nonpartisan IG investigation found that Tom nor any of his family members had done anything wrong. This opinion is consistent with the conclusions reached during two reviews by USDA under both the Clinton and Bush administrations. Tom Dorr has been cleared of any wrongdoing regarding farm payments by both Republicans and Democrats.

Second false accusation: Tom Dorr supports big farms, not family farms. I talked with Tom about this accusation because I am adamantly opposed to the concentration and consolidation occurring in rural America and I wanted to hear his explanation.

In 1998, Tom Dorr was interviewed by the New York Times and asked to provide his vision of efficient farming. With his strong understanding of economics, he explained his ideas for the use of new technologies to take advantage of input discounts. He also spoke about the ability to enhance machinery and logistics savings between family farmers, and to improve commodity marketing by establishing technology driven arrangements between cooperative groups of family farmers.

This is certainly not a new concept. This is the principle on which cooperatives were based and formed. Tom felt that there were more opportunities for cooperative efforts that farmers could take advantage of, including more efficient use of expensive harvesting and processing equipment. That is exactly the challenge that many new generation cooperatives are undertaking. We should appreciate new and bold thinking rather than criticize those the suggest new ideas or concepts.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. I need maybe 2 more minutes.

Mr. COCHRAN. Madam President, before yielding further time, I ask unanimous consent that the time for debate prior to the cloture vote be extended by 15 minutes, to be equally divided in the usual form. This has been cleared on both sides of the aisle.

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

Mr. COCHRAN. Madam President, I yield an additional 2 minutes to the distinguished Senator.

Mr. GRASSLEY. Finally, the third, and most egregious, false accusation: Tom is a racist.

This hurts me to even say it. From the projects listed earlier to the comments I read you, it is clear that Tom has demonstrated the ability as well as understands the importance of working

to empower the underserved and underutilized minority communities.

Simply put Tom Dorr is no racist, and anyone who has worked with or around him knows that. The comment that has been manipulated to generate this accusation, made during a forum at Iowa State University, was taken out of context.

I have not yet met or had any participant of this conference tell me that he or she believes Tom's remarks were meant to promote a lack of diversity. Quite the contrary, his actions while at USDA have served to show anyone who is interested that he is insightful and extremely sensitive to the ongoing issues of the minority populations that are underhoused, underbanked, and in general, underserved.

If anyone should question Tom's service at USDA, all you need do is visit with former Congresswoman Eva Clayton, Dr. Clinton Bristow, Ralph Paige, executive director of the Federation of Southern Cooperatives, and see what they think of Tom Dorr.

Tom Dorr is the person for the job. His background, recommendations, and now his track record more than provide justification for him to be confirmed as the Under Secretary for Rural Development.

Tom has already suffered a terrible disservice through the political witch hunt to which he has been subjected. It would be outrageous if rural America were to be deprived of the leadership and talent that President Bush has provided for this terribly important position. Rural America is regaining its economic, social, and cultural momentum. It would be a shame to deprive it of leadership at this critical juncture.

Madam President, I urge my colleagues to vote for cloture and to support the ultimate confirmation of this committed and talented leader.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Madam President, I will use leader time so as not to take from the time that is currently allotted in the debate.

Let me first begin by saying how much I admire the distinguished senior Senator from Iowa. I have applauded him publicly and privately for weeks, if not months now, for all of his work on a number of issues that I care a great deal about and find myself in the uncomfortable position in this case disagreeing with him with regard to this nomination. But I admire him for many other reasons.

I also must say I am very grateful for the effort made by Senator HARKIN over the course of the last 2 days to educate us all with regard to this particular nominee. The concerns he has raised are ones that I share.

This is the first time, he told me last night, in I think he said 29 years, where he has ever opposed a nominee from Iowa. I know he doesn't do it lightly. I know he does it after a great deal of very careful thought about this man's qualifications.

Before I talk about the qualifications of Mr. Dorr, let me say we have a lot of good people down at the Department of Agriculture. They are Republicans. They are Democrats. They are Independents. They care a lot about rural America. They do their best to implement the laws we write, to regulate where regulation is required.

I believe we ought to salute them and thank them for the job they do. I am always appreciative of the extraordinary task they have been charged with implementing, given how little fanfare and how little thanks they oftentimes get. That is especially true for the FSA offices in every county in most of our States. So I salute them.

I am disappointed this matter has reached the Senate floor at all. I have two concerns about Mr. Dorr. The first is the one expressed very eloquently and powerfully last night. I think it sends all the wrong signals when a person who has falsified documents can be confirmed for one of the highest positions in the Department of Agriculture. We are told he wasn't prosecuted for having falsified documents, but we also know the reason he wasn't prosecuted is that the statute of limitations had run out. People hadn't fully been apprised of the circumstances until it was too late. That is the fact.

Falsifying documents in this day and age, given all of the repercussions legally and ethically in the Department of Agriculture as well as throughout the entire Government, ought to be taken very seriously. To promote somebody who falsifies documents not only destroys the credibility and the essence of our understanding of the respect for the rule of law but sends a clear message to others who are expected to abide by the law and the regulations of the land.

Falsifying documents is wrong. There can be no explanation. There can be no acceptance. And there ought to be no tolerance. There certainly should be no confirmation of someone who has been found in violation of the regulations with regard to those documents and the regulations provided by the legislation we have passed into law.

The second is the divisive nature of some of his views. To say that those counties succeed in large measure where there is no diversity, where there is no ethnic or religious difference, sends again the wrong message about the importance of embracing diversity, of embracing the kind of differences we find in our country to be a strength rather than a weakness.

I am not sure what he had in mind when he said it. In fact, he even recognized, as he was about to say it, that maybe he shouldn't have said it. Well, he was right. But, again, whether it was a comment or whether it is his philosophical approach, if we are going to discourage diversity, discourage ethnicity, discourage religious tolerance, that, too, raises grave questions about the eligibility of somebody of this stature in the Department of Agriculture or in the Federal Government under any circumstances.

I can't recall the last time I opposed a nominee for the Department of Agriculture for anything. In 25 years, I think I have supported virtually every nominee, Republican and Democrat.

I come to the floor, like my colleague Senator HARKIN, expressing regret that we have to be here at all, expressing regret that this nominee has reached this point, expressing regret that a nominee of the stature required for this position has falsified documents and used rhetoric that goes beyond what I consider to be the acceptable tenor of debate and approach with regard to diversity and the acceptance of our multiracial and multicultural society today.

I hope my colleagues will join us in recognition that we can do better than this and that we need, at those times when we find somebody who is not qualified, to simply say so. It is incumbent upon us to take the responsibility to do that. That is our task this morning as we vote.

I urge those who will vote to vote no on cloture.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Madam President, how much time remains on this side?

The PRESIDING OFFICER. Fifteen minutes, 43 seconds.

Mr. COCHRAN. Madam President, I yield 5 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Let me first of all say that while I appreciate the comments of the minority leader, I don't believe it is accurate to make some of the accusations in terms of destroying records. It is my understanding that the Farm Service Agencies have said that after examining it, there was no intent to deceive. It was something that was done in error and good faith or however you want to characterize it.

I don't want to see happening here what appears to be happening in a similar way to the nominee to be Administrator of the EPA. Certainly Mike Leavitt was one of the most qualified individuals, and yet his nomination was strung out for days and days and weeks. It ended up at 56 days. I hope we are not going to get so partisan that this happens again in this case.

I believe Tom Dorr has completely resurfaced USDA Rural Development. As Under Secretary, Dorr has set a clear vision for USDA Rural Development as a venture capital firm for rural America. The agency once was thought of as the lender of last resort, but the mindset has been changed to one where employees aggressively seek out investments to make in people and in organizations.

I am really pleased when I see what has happened in the State of Oklahoma. We have never had anyone who

has performed like Tom Dorr has performed there. All I hear from Democrats and Republicans all around the State is what a truly great job he has done.

For example, 3 years ago my State had $29 million in guaranteed housing loans but, thanks to Tom Dorr, last year we had $60 million. It doubled, to the people who are really deserving of it, and now we have more and more Oklahomans who own their own homes rather than rent them.

In addition, since Tom Dorr has been the Under Secretary for Rural Development for the USDA, the amount of business loan programs in my State of Oklahoma has doubled. Both housing and loan programs have actually doubled in my State.

I would like also to go back to the people who speak to the real people out there, not the politicians, not people who somehow think they can have some kind of a gain if they can kill one of the President's nominees. Look at the National Corn Growers Association, the board of directors stated in a letter to Senator TOM HARKIN—this is a quote from the National Corn Growers Association; all those farmers out there who grow corn belong to this:

> The Department [of Agriculture] needs a leader like Tom Dorr to help breathe life into an agency whose future role will be to positively facilitate change in the farm economy.

The Wheat Growers Association—my State is a big wheat State, and we have an interest in this. You go out and see these people. These people are just trying to survive right now, and yet they are just praising the work of Tom Dorr.

The Wheat Growers said in a letter to TOM HARKIN:

> We encourage you to unite behind Tom Dorr as Under Secretary of Rural Development. He encompasses the creativity that can bring hope in stemming the exodus of people from our rural countrysides because of lack of economic opportunity.

That is all we are trying to do in Oklahoma is survive. Our farmers are trying to survive out there.

This is Terry Barr from the National Council of Farmer Cooperatives, the co-ops—I don't know what we would have done—who said:

> We understand the Senate may soon consider the nomination of Thomas Dorr as Under Secretary of Agriculture for Rural Development. . . .
>
> Rural development and related programs carried out by the United States Department of Agriculture are of vital importance to farmers and their cooperatives. These include programs aimed at encouraging and promoting the ability of farmers to join together in cooperative efforts to improve their income from the marketplace.

Again, this is the National Council of Farmer Cooperatives:

> Mr. Dorr, we believe, has demonstrated that he has the background, experience and understanding necessary for success in this important position of leadership.
>
> We urge the Senate to confirm his nomination.

So you hear from all the users out there and from the farmers—those individuals out there who are trying to survive.

Also, keep in mind one other thing. Thomas Dorr came from a small farmer community. He understands how they think. I think it is critical that we confirm him as soon as possible.

To reiterate, on March 22, 2001, President Bush announced his intention to nominate Tom Dorr of Marcus, IA, to serve as Under Secretary of Rural Development for USDA. Two and a half years later, his nomination is still pending.

This is obstruction. Thomas Dorr is not the only nominee being blocked for confirmation. As chairman of the EPW Committee, I dealt with this same problem—obstruction—with the nomination of Governor Mike Leavitt to be administrator of the EPA.

This is about politics, not nominees. Thomas Dorr is more than qualified to hold the position of Under Secretary for Rural Development of the U.S. Department of Agriculture. I don't think anyone has questioned that the motivation for these delays was partisan presidential politics.

Apparently nominations are no longer about a nominee's qualifications and support, but simply about partisan politics.

Americans expect and want the Senate confirmation process to be thoughtful and thorough, but they certainly don't think it should drag on year after year.

Tom Dorr has completely resurfaced USDA Rural Development. As Under Secretary, Dorr has set a clear vision for USDA Rural Development as the venture capital firm for rural America. The agency was once thought of as the lender of last resort, but the mindset has been changed to one where employees aggressively seek out investments to make in people and organizations that will fulfill the mission.

Under Secretary Dorr ran his farm and business from a small town so he understands well the needs of rural America, including the need for technology to allow these communities to compete. He believes that broadband is as meaningful to rural America today as rural electrification was in the mid-20th century. He led the effort to complete the rulemaking process and begin accepting applications for the new broadband program. Through his efforts, $1.5 billion is available this year to help build rural technology infrastructure.

The list of improvements that increased economic opportunity and improved the quality of life in rural America that were spearheaded by Tom Dorr is endless.

He has tackled the very complicated and difficult problems involved in the Multi Family Housing Program, that, according to the one congressional staffer, ''were ignored by all previous Under Secretaries''—he believes all rural citizens deserve safe and secure housing.

Dorr initiated an aggressive marketing program to extend the outreach of USDA Rural Development programs to more deserving rural Americans and qualified organizations, especially minorities.

In addition, he is proponent of renewable energy, which led to millions of dollars in grants to develop renewable energy sources; he has greatly boosted the morale of USDA Rural Development employees; has greatly aided in the development of community water/wastewater infrastructure—and the list goes on and on.

For my State of Oklahoma, the strong leadership at the top of Thomas Dorr has resulted in an increase of millions of dollars in rural development.

For example, 3 years ago my State had $29 million in guaranteed housing loans, but thanks to Tom Dorr, this last year Oklahoma had $60 million in guaranteed housing loans. That represents an increase of $31 million worth of Oklahomans that now own their homes rather than renting them.

In addition, since Thomas Dorr has been the Under Secretary of Rural Development of the USA, the State of Oklahoma's amount of business loan programs has doubled from $15 million to $30 million.

Tom Dorr has gained support from a spectrum of organizations and individuals: The National Corn Growers Association Board of Directors stated in a letter to Senator TOM HARKIN: ''The Department [of Agriculture] needs a leader like Tom Dorr to help breathe life into an agency whose future role will be to positively facilitate change in the farm economy.''

In another letter to TOM HARKIN, the President of the National Association of Wheat Growers stated: ''We encourage you to unite behind Tom Dorr as Under Secretary for Rural Development. He encompasses the creativity that can bring hope in stemming the exodus of people from our rural countryside because of lack of economic opportunity.''

However, surprisingly enough, TOM HARKIN is one of the main reasons Tom Dorr's application is still pending today.

In a letter to Senator BLANCHE LINCOLN, the USDA Assistant Secretary for Civil Rights points out that Tom Dorr is a leader in the advancement of civil rights: ''I have no vested interest in seeing individuals advance in this administration who I fear will hamper the progress of civil rights within the USDA. Mr. Dorr is not such an individual. If confirmed, I believe that Mr. Dorr would continue to work with me to advance civil rights at USDA.''

It is obvious that Tom Dorr is the most qualified person for the position of Under Secretary of Rural Development for the USDA. He has completely turned around the USDA office of Rural Development, and has clearly gained praise from all sorts of individuals, agencies, and organizations. Do not let this man fall victim to partisan politics.

Mr. CRAPO. Madam President, I rise today in support of Tom Dorr and to urge my colleagues to vote for cloture.

As chairman and one-time ranking member of the Agriculture Subcommittee on Forestry, Conservation, and Rural Revitalization, I have had the opportunity to work with Tom Dorr from the time he was nominated in April 2001, and I have had the pleasure of working with him for the past year in his capacity as Under Secretary of Rural Development.

I would like to share with my distinguished colleagues some of the comments that I have received from people in Idaho about Tom Dorr's efforts: ''He has a real passion for rural America,'' ''He has vision and courage,'' ''It would be a real loss if he is not confirmed,'' ''there is confidence in his clear vision for how Rural Development can help rural America''. ''He is providing real leadership, and has the trust of everyone that works here.''

Mr. President, Tom Dorr has what we look for in our Under Secretaries, vision and leadership. He is making real changes at USDA that will benefit the rural citizens of my State and the country.

One of my priorities has been to help bring and build jobs in Idaho, particularly in rural Idaho. Tom Dorr shares those priorities and is working to build on USDA Rural Development's capacity as a jobs creation agency.

He recognizes that building the infrastructure to attract and develop long-term growth is vital to the well-being of the communities.

Many of us choose to live in rural America for its values, community, and character. We need to work to ensure that those who wish to live in rural America can. The jobs need to be there and the infrastructure needs to be there. Tom Dorr recognizes that.

In 2001 when Tom was first nominated for this position, and in 2002 when the Senate first began to consider his nomination, I was convinced that he was qualified to lead the agency.

Since the President appointed him during the August recess last year, he has proved that he is qualified to lead the agency.

To those who would argue that the Senate needs more deliberation, I say that the Senate has deliberated long enough.

Tom Dorr was first nominated in April 2001. A hearing was held in March 2002, after three previously scheduled hearings were cancelled. Prior to the committee reporting out his nomination, he answered hundreds of questions from Committee Members. In fact, the committee's ranking member requested more than 1,000 documents or pieces of information.

When the committee considered his nomination this year, it reported him out by a vote of 14 to 7. Did we report him out in one day, no. At the confirmation hearing, the ranking member was given the opportunity to expound on why he opposed the nominee, and he did so until the committee no longer had a quorum.

Madam President, Tom Dorr has been available for questioning and we've had the opportunity for oversight since his nomination in 2001 and his appointment in 2002.

Throughout this process, some have sought not to deliberate on his nomination, but to delay it in the hopes it might whither on the vine.

I ask my colleagues for an up or down vote on his nomination. He deserves it. And, I believe, the country deserves his leadership.

Mr. BIDEN. Madam President, today I am voting against ending the debate on the nominations of Thomas C. Dorr to serve as the Under Secretary for Rural Development at the Department of Agriculture and also as a member of the Commodity Credit Corporation because I believe it is premature for this body to be voting on the appropriateness of Mr. Dorr to assume these positions. This is an unusual step for me, but, then again, this is a very unusual situation.

I have long recognized that a President should generally be entitled to have executive branch agencies run by the people he chooses. While his selections should be given considerable deference, the President's power of appointment is limited by the duty of the Senate to provide ''advice and consent.'' Throughout my tenure in the Senate, I have supported countless nominees for Cabinet and other high-level positions, including many with whom I have disagreed on certain policies, but I have also cast my vote against confirmation when I have become convinced that the nominee is not suitable to fill the role. In this instance, I do not believe the Senate has all the facts that are necessary to make an informed judgment.

During this confirmation process, serious questions were raised about misrepresentations made by Mr. Dorr to the U.S. Department of Agriculture regarding his farming arrangements with two family trusts in an effort to secure farm program payments, and the subsequent restitution made to the Federal Government of nearly $34,000. Rather than resolving these questions, last year's hearing on this nomination held by the Senate Agriculture Committee raised additional and disturbing questions, and the nominee thereafter failed to supply documents that might remove the cloud over this matter. That is why last June, I joined many of my colleagues in the Senate in urging the majority leader to withhold further Senate action on these nominations until the nominee furnished the requested information to clarify the important questions raised about his integrity in financial dealings with USDA and his truthfulness and veracity in sworn testimony before the Senate committee. I am disappointed that, rather than helping to secure a resolution of these serious issues, the majority leader has chosen to move these nominations forward. As such, I am left with no recourse other than to oppose cloture on these nominations.

Mr. FEINGOLD. Mr. President, I rise today to speak on the nomination of Thomas C. Dorr as Under Secretary for Rural Development and as a member of the Commodity Credit Corporation board at the Department of Agriculture (USDA). The position at USDA to which Mr. Dorr has been nominated is highly influential in the continued development of rural America, holding the unique responsibility of coordinating Federal assistance to rural areas of the Nation.

Many people, when they think of rural America, may think of small towns, miles of rivers and streams, and perhaps farm fields. But I know that rural Wisconsin is also characterized by communities in need of firefighting equipment, seniors who need access to affordable healthcare services, and low-income families in need of a home. The U.S. Department of Agriculture's Rural Development programs and services can help individuals, families, and communities address these and other concerns, which is why the office of Under Secretary for Rural Development is so important.

I have deep concerns regarding Mr. Dorr's comments and opinions about the future of rural America, particularly in light of his nomination to this important post. I disagree with Mr. Dorr's promotion of large corporate farms and his vision of the future of agriculture. Nevertheless, when it comes to confirming presidential nominees for positions advising the President, I will act in accordance with what I feel is the proper constitutional role of the Senate. I believe that the Senate should allow a President to appoint people to advise him who share his philosophy and principles. My approach to judicial nominations, of course, is different—nominees for lifetime positions in the judicial branch warrant particularly close scrutiny.

So, although I may disagree with Mr. Dorr's views on agriculture issues, I am not prepared at this point to oppose Mr. Dorr's nomination on those grounds. However, those are not the only grounds to oppose the nomination. I also have strong reservations about Mr. Dorr's public comments on issues of race and ethnicity and I am troubled by Mr. Dorr's apparent abuse of the Government's farm programs.

Furthermore, Mr. Dorr has not yet provided information to the Senate Committee on Agriculture, Nutrition, and Forestry that has been requested of him. This information would clarify questions about his honesty and integrity in financial dealings with the Department of Agriculture as well as in sworn testimony to the Committee. I am concerned that Agriculture Committee rules and practice were apparently not followed with respect to the nomination hearing of Mr. Dorr. I am not alone in expressing these sentiments—I joined with forty-two of my

colleagues, led by the ranking member of the Agriculture Committee, in conveying these concerns to the majority leader.

The Senate should not be forced to vote on a nomination before we have all of the information that we feel is needed to make an informed decision. There may be good explanations for Mr. Dorr's testimony and answers, but the Senate does not have them yet. And we should get them before we vote on the nomination. I will therefore vote no on cloture.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Madam President, I am pleased to present to the Senate the President's nomination of Thomas Dorr to serve as the Under Secretary of Agriculture for Rural Development and to be a Member of the Board of Directors of the Commodity Credit Corporation. The President appointed Mr. Dorr to the position of Under Secretary of Agriculture and Rural Development during Senate recess on August 9, 2002.

Following the August recess of 2001, the nominations were resubmitted by the President, and received in the Senate on September 4, 2001.

The President then resubmitted the nominations to the Senate on September 30, 2002; again the nominations were not acted upon and consequently returned to the President on November 20, 2002.

Following the adjournment of the 107th Congress, the President once again resubmitted Mr. Dorr's nominations on January 9, 2003 for consideration during the 108th Congress.

Obviously, the President believes Mr. Dorr to be qualified for this post, and Mr. Dorr's record during the appointment to the position certainly supports the President's confidence in him. While serving in the position of Undersecretary of Agriculture for Rural Development, Mr. Dorr has performed his duties in a way that has reflected credit on the Administration of President Bush. He deserves to be confirmed.

Specifically, Mr. Dorr has helped expedite the release of $762 million to help reduce the backlog of community water and wastewater infrastructure applications.

Mr. Dorr led the effort to complete the rulemaking process and begin accepting applications for the new program to provide broadband Internet access to rural communities.

He has utilized private sector resources to help expedite the review and announcement of $37 million in Value Added Agriculture Product Market Development Grants.

Mr. Dorr has been instrumental in facilitating the pending agreement between the Small Business Administration and USDA Rural Development on the new Rural Business Investment Program created in the Farm Bill.

Under his stewardship, more rural families own homes where they live in safety and comfort: Mr. Dorr has worked with Congress to convert $11 million in carryover housing funds to support $900 million in new funding for guaranteed loans—creating an additional 12,000 homeownership opportunities.

He worked to help the families of economically distressed areas in the Southwest colonias through a formal agreement with the Department of Housing and Urban Development.

He has insisted on fairness to improve accountability and performance on minority homeownership loans by working with the Department of Housing and Urban Development, the Federal Housing Authority and Veterans Affairs in development of consolidated minority tracking reports.

Madam President, the committee has received numerous letters supporting this nomination.

For the benefit of Senators and for their information, I am going to point out a few things contained in the letters that I think are particularly persuasive and support this nomination.

This is a letter that is signed by 14 different agricultural commodity groups and organizations, and by the American Farm Bureau Federation:

Mr. Dorr has proven that he has the skill and experience necessary to lead USDA's rural development efforts.

Another letter, written by a constituent from my State, a copy of which was given to all members of our committee, written by Dr. Clinton Bristow, the president of Alcorn State University at Lorman, MS. He wrote in his capacity as chair of the Council of 1890 Presidents and Chancellors. In his letter supporting this nomination he said:

Secretary Dorr has been an invaluable resource in helping us build new and complementary relationships within and without USDA. . . .

Most recently, he represented the department at a town hall meeting for small farmers voices, sponsored by the council and held at Alcorn State University. More than 200 farmers from the delta area attended the forum—unabashed and relentless farmers who represent the bottom of America's agricultural industry.

In spite of the challenge, Tom was superlative in guiding the farmers through the economic and political realities of the global marketplace and helping them to understand the makeup of programs and the allocation of resources at USDA. He has set stage for sustained dialog between USDA, the 1890s, and farmers in distress. This represents only a snapshot of the many challenges that Under Secretary Dorr has helped us negotiate.

Madam President, another letter from William C. Hunter, senior vice president and director of research at the Federal Reserve Bank of Chicago. He says:

As an African American, I can honestly say that I have never felt uncomfortable in Tom's presence. I have never heard him offer disparaging remarks about people of color, the intrinsic value of diversity, or about small farmers, for that matter. He is bright, articulate and personable. He accepts critical comments well and is not afraid to speak his mind and demonstrates rigorous economic thinking at all times.

Finally, he has a deep understanding and appreciation of issues confronting our rural and agriculture communities.

I have additional letters by the National Corn Growers, National Association of Wheat Growers, and finally this letter from the National Rural Electric Cooperative Association:

Mr. Dorr's frankness in addressing the issues facing electric cooperatives is much appreciated. We have no reservations regarding Mr. Dorr's confirmation.

That is signed by Glenn English, chief executive officer.

There are additional comments that we gleaned from newspapers, including an editorial supporting the nomination by the Des Moines Register editorial board. There are numerous other editorial comments in support of the nomination. Here is one entitled ''Informed Iowans should support Tom Dorr'' from the Sioux City Journal. There is an opinion piece in that newspaper, also. Here is something from the World Perspectives newsletter strongly supporting the confirmation of Tom Dorr. Here is another from the Webster Agricultural Letter, which is an interesting discussion of the political confrontation that is reflected in this nomination in opposition to it. Also, here is a copy of the National Review Online, with a description of the controversy over the Dorr nomination but coming down in support of his confirmation.

I ask unanimous consent copies of these editorials and newsletters be printed in the RECORD.

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

[From the DesMoinesRegister.com, June 3, 2002]

EDITORIAL: MAKE A DECISION ON DORR

Every shred of evidence of alleged wrongdoing by USDA nominee Thomas Dorr has been pursued. To the point of tedium. It is time to move on: Senator Tom Harkin should quit holding Dorr hostage.

Dorr is a Marcus, Ia., farmer and agribusinessman who was appointed months ago by President Bush to be U.S. undersecretary of agriculture for rural development. Harkin is chairman of the Senate Agriculture Committee, which must decide whether to send Dorr's nomination to the full Senate for a confirmation vote.

Questions have been raised about Dorr's fitness for the job. Some of those questions are matters of philosophy that, like it or not, should be of no concern to the Senate. On appointments within the executive branch, the president should have wide discretion in staffing his administration with people of his choosing, even if that means confirming individuals some senators find distasteful.

Some questions—namely whether Dorr broke any rules when receiving federal farm payments—are relevant, but they seem to have been answered now that the USDA's inspector general has closed the books on its inquiry after finding insufficient evidence to pursue criminal charges.

Harkin may have good reason to persist in raising questions about whether Dorr properly followed the rules in receiving crop-subsidy payments: Just because there's insufficient evidence to warrant a criminal investigation does not mean Dorr's skirts are clean. Harkin should not, however, use that

as an excuse to hold the Dorr nomination in limbo.

That is what the Republicans did to Clinton administration nominees for everything from surgeon general to the federal courts. It was wrong when the Republicans ran the Senate; and it is wrong now that the Democrats are in control.

Harkin owes it to Dorr and to the White House to move forward. Give Dorr another opportunity at another hearing to answer any and all questions, and then vote his confirmation up or down.

By delaying so long, Harkin gives credence to critics who say he's only playing political games.

[From the Sioux City Journal, July 10, 2001]

INFORMED IOWANS SHOULD SUPPORT TOM DORR

(By Donald Etler)

ALGONA, IOWA.—A recent Associated Press article described a petition fronted by the National Farm Action Campaign, NFAC, and signed by representatives of 161 organizations calling for the rejection of Iowa businessman and farmer Tom Dorr in consideration of his nomination for USDA undersecretary for rural development. It is unfortunate that Dorr cannot respond in deference to the request of the White House. But, does anyone really believe the claim of the NFAC that Tom Dorr advocates one farmer for every 350 square miles or that he thinks 500 of every 501 farmers should go out of business?

I have dealt with Tom Dorr on both professional and personal levels. This man does not deserve the distorted, severe attacks upon his beliefs and character. I believe I know Tom well enough to be correct in believing that his work ethic, business sense, tenacity and moral foundation would serve rural America, and rural Iowa, quite well.

Those who choose to distort Dorr's words regarding farm program policies must be doing so solely for political reasons because as undersecretary for rural development Mr. Dorr's responsibilities would not be in areas that deal with USDA commodity programs or environmental regulations which most directly impact independent farmers. Political reasons probably explain why a website has been set up where with the click of a button a letter to the editor opposing Dorr can be downloaded. Seeing this reminds me of the old West lynch mobs.

The undersecretary for rural development is primarily responsible for policies affecting infrastructure and commerce in rural communities. Ninety percent of rural America's jobs are found in those communities and not on the farms. Most of our farmers now have off-farm jobs. As our rural communities struggle to survive with an aging and shrinking population, with the exit of businesses to larger regional communities, and with the retirement of up to 25 percent of surrounding cropland under existing farm programs, rural communities should be demanding that federal rural development policies to be retooled and redirected to reverse the long decline. In opposing Dorr, the NFAC empowers entrenched bureaucrats to continue failed programs to our continued harm.

Do the members of those groups that oppose Dorr's nomination truly want to hold the status quo which, in the case of the USDA rural public policy, has been ineffectual if not harmful for rural communities across the country? I believe Tom Dorr will tackle failed and misguided rural development programs from a new perspective. He will demand accountability of the entrenched bureaucracy and he will bring the new ideas and vision that are so sorely needed.

In the interests of the multitude of Iowa's struggling rural communities, informed Iowans would be well served to support the nomination of one of our own.

[From World Perspectives, Inc., Mar. 6, 2002]

APOLLO 13 AND THE TOM DORR HEARING

(By Emily S. French)

If you're Tom Dorr, the nominee for Undersecretary for Rural Development at USDA, you know you're having a bad day when the Senate Ag Committee Chairman Tom Harkin (D–IA) says, ''to quote Apollo 13—Houston we've got a problem,'' just prior to a two hour recess during your confirmation hearing. That is what happened today.

Already a controversial federal nominee, Dorr came under additional fire as the Des Moines Register ran an article today, citing a recorded phone conversation in which Dorr allegedly said that government officials might ''raise hell'' if they audited his participation in federal farm subsidy programs. The tape was sent anonymously to the Des Moines Register last month; five people familiar with Dorr, according to the paper, identified his voice in what was represented as a 1995 phone conversation. The Register made no comments on how or why the tape was made. Surprisingly, no one defending Dorr referred to the . . .

The Controversy: The Iowa Farm Service Agency (FSA) reviewed one of the many trusts belonging to various members of the Dorr clan during 1995. During the taped conversations between, allegedly, Tom Dorr and his brother Paul Dorr, Tom Dorr said that the two trusts—the Belva Dorr Trust and the Harold Dorr Trust—are operated with the ASCS (now known as the FSA), to ''quite frankly avoid'' minimum payment limitations.

The Ruling: The state FSA office concluded that the farm wasn't properly structured within the family trust. But that there was no scheme on the part of the family to defraud the government. A repayment of $17,000 was ordered and made.

The Politics: The division of corporations, family farms or individuals who receive payments from the federal government under the Farm Bill program are allowed. There is nothing illegal with setting up a corporation, a limited partnership, a trust or an individual to receive payments from the federal government under this program and registering these entities with the FSA. The 1996 Farm Bill allows this under its ''three entity rule'' whereby one person is eligible for payments on up to three farm entities. The payment limit on the number 2 and 3 entities is half the amount on the first farm. It looks like this is what Dorr was doing, which is not surprising for any individual or company to look at all opportunities to legally maximize their operation's profitability, would be against any economic rationale.

The Senate farm bill changes this rule. In fact, Dorr supporter, Senator Charles Grassley (R–IA) is the author of the provision that tightens down payment caps. But it seems that Chairman Harkin, who didn't have such a provision in the bill he brought to the Senate floor, is ready to try Dorr for what he did in 1995, under rules that aren't even in effect yet in 2002.

This controversy has largely replaced the flap over statements Dorr made about ethnic and religious diversity in Iowa. In case clients missed that one—Dorr pointed out that there wasn't a lot of diversity in Iowa, and specifically in a couple counties that were growing economically anyway. And he did so in response to a question, stating fact. But Dorr's opponents have used this as a means of labeling him racist—an effective and particularly damning charge that is hard to shake. It seems, however, that payment limits, racial insensitivities, etc. are just side issues to the real reason why so many people in ag and farm policy so stridently oppose Dorr. He's a guy who openly talks about agriculture as a business that needs to be shaken up, revitalized, restructured, in order to re-capture its place in the U.S. and world economy.

WPI Analysis: This analysis is perhaps a bit more personal than usual, but it goes to a broader point about the economic future of agriculture. I will start by stating that until this morning, I had never met Tom Dorr (though several of my colleagues at WPI do know him). I knew of the controversy surrounding his appointment, but had not heard Mr. Dorr speak for himself. Instead, I had relied on translation of what his foes or friends say he said. Moreover, I should state that I grew up on a farm in Northern Idaho. There were 12 people in my high school class. I went on to attend a land-grant university. I am a product of rural America, a fact that defines me as a human being. I understand all the emotions of how ''special'' rural America and the ag economy are. But while I am extremely passionate about production agriculture—and the way of life that accompanies it—I chose to leave farming as a career. And, subsequently, I left rural America for better opportunities. I didn't want my future to be based on a farming operation that made a 5-6 percent return of investment in a ''good'' year. Tom Dorr is a guy who spent most of his career on the farm trying to wring out better returns and did a good job of it. Now he wants to come to Washington and take a job to try to change, for the better, economic opportunities in rural America.

After listening to comments from various Senators on the Senate Ag Committee, I can only shake my head in finally realizing why the farm bill has an additional $73 billion over 10 years in payments of one kind or another. I would challenge those ''decision makers'' over the idea that infusing cash and protecting the small family farm is somehow saving rural America or promoting rural development. It would seem all that it is doing is making more people reliant on the government and, in fact, rather than promoting development that spending probably hinders progress. All that federal spending buys more of is the status quo; there is no need to change, diversity or become more efficient.

It's clear to me after hearing him today, Tom Dorr feels the same way—that policies need to be changed. That—not any alleged payment scandal or racial insensitivities—is why so many policy makers oppose him, including one of his own home state Senators, Chairman Harkin. When asked by Harkin to clarify his ideas, Mr. Dorr summarized technology as the one thing that would give farmers the ability to access world markets, access information and, as a result, expand farm gate margins. That doesn't sound controversial. If a producer were able to expand margins and become more efficient, perhaps there would be less reliance on the government for bloated farm bill budgets? It's only controversial if you are used to being the ones that get credit doe providing those budgets.

If the USDA and the Bush Administration wants a person that understands rural development and understands the way of life in rural America, then it not be a person that has 'dirt under their fingers' as Senator Lugar said numerous times during the hearing this morning. Tom Dorr is such a person. His vision for farming, is one based on basic economics. Perhaps it is a little Darwinistic ''survival of the fittest'' approach, but the real irony is, as Undersecretary for Rural Development he wouldn't be in charge of farm programs or policy. No matter, there are still many Senators who think his views

on farm policy disqualify him from having a job in Washington.

In closing, it is with amazement and frustration that I note: only Senator Thomas of Wyoming asked Mr. Dorr about his vision for rural development. And this was after almost two and half hours of testimony and questions. A sad state of affairs indeed as Washington, USDA, and rural development needs more ''out of the box'' thinkers whom challenge the status quo.

[From the Webster Agricultural Letter, June 15, 2001]

Dear Subscriber:

Killing the messenger? Can the Senate reject a nominee for stating the obvious? . . . A federal judge will hear a challenge to a state amendment restricting corporate agriculture . . . View from the country: the disconnect between farm policy and farm reality . . . Partisan divisions are put aside as a House committee approves USDA appropriations . . . Why don't higher prices help farmers? . . . Economics trumps politics in a milk price decision.

DORR CONFIRMATION BECOMES A TEST OF POLITICAL INFLUENCE

Rarely does the Senate reject a nominee for a USDA sub-Cabinet post for expressing an opinion, let alone for telling a truth. Only three times in three decades have we seen even minimal pressure to block a nominee. Only one succeeded: the late Kathleen Lawrence asked her nomination by withdrawn in the face of bipartisan an opposition (see The Agricultural Credit Letter, 3/20/87 P6). Family farm advocates failed to stop Bank of American executive Robert W. Long from becoming assistant secretary for research in 1973. A farm women's group persuaded only a minority of Senate Agriculture Committee remembers to oppose Carol Tucker Foreman as assistant secretary for food and consumer services in 1977.

But those are the exceptions. By and large, senators believe presidents are entitled to their choices, absent overriding scandal or ideological aberration. Neither of those factors applies in the matter instant, the nomination of Iowa farmer Thomas C. Dorr to be under secretary of agriculture for rural development. Trouble for Dorr arises from two directions: family farm advocates who challenge his vision of agriculture and minority groups who feel his remarks about diversity raise questions about his commitment to protecting civil rights.

''The level and intensity of opposition to Dorr is unprecedented, testimony to today's issue-intensity politics and the near-instant organizing proficiency of interest groups. Opponents claim more than 160 organizations have joined the campaign. Most appear to have little more than a letterhead and some Willie Nelson money but some have real members or deep foundation pockets. Among those: American Corn Growers Association, Environmental Working Group, Federalism of Southern Cooperatives, Institute for Agriculture and Trade Policy and National Farmers Organization.''

The critics engage in political hyperbole, reading too much into Dorr's impolitic style of provocative comment. A more balanced appraisal sees him merely stating the obvious—even foresight—in describing the industrialization of agriculture or in asking why three Iowa counties with little ethnic and religious diversity succeeded with economic development. Assuming he can take the heat and Secretary of Agriculture Ann M. Veneman and the White House stand fast (so far no evidence to the contrary) Dorr should make a persuasive case at a conformation hearing. He might adapt a line from Purdue's Mike Boehlje: ''I'm not saying I like what I'm saying: I'm saying 'this is'.'' Scheduling a hearing depends on when the Senate agrees on rules to organize committees. Whether he's confirmed will test whether the political clout of his critics equals their formidable skill at using the news media.

Despite higher payments and marketing loan gains under the Senate bill in the first two years, the House version would favor the major program crops—by an average of $206 million a year over five years or $799 million a year over a decade. Soybeans would gain more under the Senate bill while corn, wheat, cotton and rice would gain more under the House.

''FAPRI estimates the Senate bill would result in slightly more acreage planted to major crops than the House bill, with the largest increases for wheat and feed grains. The Senate's payment limitations could have proportionally larger effects on cotton and rice producers than on producers of other crops. Senate dairy provisions would mean slightly higher average returns (14 cents per cwt.) to milk producers in 2002–06 than the House, with a greater boost in returns to farmers in the Northeast than in the rest of the country.''

FAPRI calculates a chance of about one in three that either would cause the United States to exceed World Trade Organization limits on amber box subsidies but the probability would decline in later years. Federal spending on commodity and conservation programs over the next 10 years would increase by $59.8 billion for the House bill and by $63.5 billion for the Senate bill. The Senate bill would result in higher government costs in 2002 and 2003 while the House bill would mean more spending in seven of the next eight years.

KILLING THE MESSENGER? VISIONARY'S FOES HOPE TO EXTINGUISH A VISION

After persistent, mostly hostile questioning in a Senate Agriculture Committee hearing Wednesday, prospects for confirmation of Iowa farmer Thomas C. Dorr as under secretary of agriculture for rural development nominee are up in the air. But committee approval may not be as doomed as some think—USDA and White House lobbyists need to convince only one Democrat to join what likely will be 10 solid Republican votes to move the nomination to the floor, where a single opponent could, using a Senate prerogative, delay a vote indefinitely.

Given the first opportunity since his nomination last April to rebut allegations, Dorr clearly won the day on the merits. But he did not appear to convince Democrats who disagree with both his political philosophy and his clear vision of what is happening in agriculture. He was able to put to rest allegations that he advocated large-scale agriculture, opposed ethnic and religious diversity and was antagonistic to ''sustainable'' and organic agriculture and the agricultural extension. He also satisfied any impartial observer that he did not improperly farm the farm program, noting he repaid USDA $17,000 in program payments in the early 1990s—the result of a difference of opinion interpreting rules governing participation.

''To Sen. Charles Grassley, R–Iowa, the hearing had earmarks of a 'political lynching' with the 'opposition fomented from inside the beltway here in Washington, D.C.' Opposing witnesses appeared to make little headway with allegations he was a cheerleader for industrial-scale agriculture and antagonistic to racial and religious diversity. But skeptical Democrats were more receptive to recent revelations of his participation in farm programs and his philosophy about the federal rural development programs he would administer. To Sen. Max Baucus, D–Mont., Dorr's philosophy appeared 'antithetical to rural America.'''

Dorr's difficulty stems from an uncanny perception of the forces shaping agriculture and his willingness to describe them in blunt terms—attributes rarely found in public service. ''He has simply stated the obvious,'' says University of Maryland agriculture dean Thomas A. Fretz, who was associate dean at Iowa State when Dorr was a member of the state board of regents. ''What Tom Dorr brings is 'out of the box' thinking that challenges bureaucratic normalcy.'' Dorr's widely quoted comment that some ethnically homogeneous Iowa counties were successful with economic development, Fretz added, ''simply stated the reality.''

One of the strongest testimonials came from Varel Bailey, Anita, Iowa farmer and former National Corn Growers Association president who worked with Dorr in modernizing an antiquated NCGA in the late 1970s. ''He is very aware of the plight of rural America,'' Bailey said of Dorr. ''He has lived and farmed through the economic, social and political decline. The difference between Tom and most other people is that he steps up and tries to help.''

[From the National Review Online, June 1, 2001]

DORR-VERSITY

(By Roger Clegg)

Once upon a time, if you read the words ''diversity'' and ''farming'' in the same sentence, you could be pretty sure that the article would be about crop rotation.

Those days, of course, are long gone. See the word ''diversity'' now, in any context, and you know it's going to be another article about melanin content and national origin.

On Wednesday this week, the New York Times and Washington Post both reported that the Bush administration's nominee to head the Agriculture Department's rural-development programs, Thomas C. Dorr, was under fire for comments that the Congressional Black Caucus, NAACP, and Black Farmers Association fear may show him to be anti-diversity. On December 11, 1999, Dorr was videotaped at a meeting at which the economic successes of three Iowa counties—populated largely by descendants of Dutch Protestant and German Catholic settlers—were being discussed. Said Mr. Dorr: ''And you'll notice when you get to looking at them that they're not particularly diverse. At least not, uh, ethnically diverse. They're very diverse in their economic growth, but they're very focused, uh, have been very nondiverse in their ethnic background and their religious background, and there's something there that has enabled them to succeed and succeed very well.''

The quoted statement underscores, in an unintentionally amusing way, that some kinds of diversity are politically correct and relevant but some aren't. It is at least a little odd that Dutch Protestants and German Catholics are now thrown together and considered to be just a bunch of white Christian dudes. Wasn't there some recent unpleasantness when the Dutch and Germans were shooting at each other with guns, and some less recent unpleasantness when Protestants and Catholics in Europe were shooting at each other with bows and arrows? No matter: Now they're all just ''white,'' unless they're lesbians—no more diverse than those other white guys, Israelis and Palestinians.

Likewise, Americans with ancestors from Cuba, Mexico, Puerto Rico, and Brazil may have absolutely nothing in common when it comes to income, religion, language, politics, or culture, but they're all ''Hispanic'' because those ancestors come from countries that centuries ago were settled—probably a politically incorrect concept—by people who came from somewhere on the Iberian peninsula. Makes them all the same. Ditto for

Filipinos, Japanese, Chinese, Indians, and Pakistanis—they may have hated each other for centuries, but in this country, by God, they're all ''Asians and Pacific Islanders'' as far as government bureaucracies, university admission officials, and the civil-rights establishment are concerned.

The Bush administration has announced that Mr. Dorr has its ''full support,'' and an unnamed source there said that Dorr's words have been taken out of context, since he had simply been pointing out a demographic fact, not suggesting a causal relationship. How, it is quite possible that the words were taken out of context, as I'll discuss in a moment, but the words quoted from the videotape seem to make it pretty clear that he was in fact suggesting a causal relationship.

I haven't seen the videotape, but it wouldn't surprise me if Mr. Dorr brought up the lack of diversity in these three successful counties because, earlier in the discussion, someone had been talking about how diversity was essential for economic success—a common, if false, platitude these days, especially in academic settings (the meeting was of the Iowa State University board of regents). Oh yeah, says Dorr, well looky here: Economic success and no diversity in sight. So there.

Satisfying as it may have been, in making this observation Mr. Dorr touched the third rail of American politics. Elizabeth Salinas Newby, administrator of the Iowa Division of Latino Affairs, has retorted: ''It sounds like he's trying to say diversity isn't important for growth. It is exactly diversity that has helped this state grow.''

So who's right: Dorr, if in fact he was saying that lack of diversity can breed economic success, or Salinas Newby, who says that, to the contrary, diversity helps in succeeding economically? The answer is, to some extent both are right, but mostly both are wrong.

There may be some situations where diversity can help an enterprise. In a sales operation, for instance, it may make it marginally more likely that companies will develop insights into how best to market products to some demographic groups—although, I hasten to add, it might not: Non-Hispanics can learn how to market to Hispanics, and there are as many differences among Hispanics as there are similarities.

There are, conversely, probably some situations where a lack of diversity can help. Having a common heritage and set of values, customs, and manners can foster greater trust, better morale, and closer teamwork. It also cuts down on interracial and interethnic conflict, as well as other potential distractions. This point should be borne in mind by those who rely on pseudo-studies to support diversity through affirmative action. If these studies, and the benefits from diversity they purport to find, are viewed as sufficient to justify racial and ethnic preferences favoring ''underrepresented'' groups, then it follows that similar studies about the costs of diversity will be sufficient to justify racial and ethnic discrimination against those groups.

But in the vast majority of economic enterprises, diversity or lack of diversity is either completely irrelevant, cuts in both directions, or makes only a marginal difference. Any advantages or disadvantages will be completely swamped by factors having nothing to do with skin color or ancestry, like talent, intelligence, education, and willingness to work hard.

Whether one succeeds or fails as a farmer in Iowa will be influenced much more by the weather than the color of one's neighbor. What one learns and achieves, as a student at Iowa State will hinge on one's talent and teachers, not the distant ancestry of the other kids in the lecture hall. But no matter how the debate over Mr. Dorr's nomination plays out, one doubts that anyone involved will fail to genuflect before the altar of diversity.

Mr. COCHRAN. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time remains?

The PRESIDING OFFICER. There are 13 minutes 40 seconds remaining.

Mr. HARKIN. I yield 5 minutes to the Senator from Minnesota.

Mr. DAYTON. Madam President, I salute my colleague, Senator HARKIN, for his outstanding principles and his considerable fortitude. This is not a pleasant task, and I know it is one that has been very difficult for my friend and colleague, my neighbor to the south, who at the time of this coming forward was the chairman of the Senate Agriculture Committee.

Contrary to what some are perhaps alluding to, and what others observing this may suspect, this is not planned or contrived on anybody's part. In fact, it was the day of the Senate Agriculture confirmation hearing last year, Senator HARKIN chairing—and I served as a member—the very day of the hearing, the largest circulation paper in Iowa, highly respected for its integrity and its veracity, ran a major investigative story about Mr. Dorr and set forth many of the references that Senator HARKIN has just made, and others as well, detailing and making the charge and the case that Mr. Dorr had cheated the Federal farm programs; that he had misrepresented partnerships of which he was managing trustee; that he had misrepresented payments for what services they were being provided; and that he had falsified claims that he had signed as the managing trustee in order to get paid more public money from these Federal farm programs than he was legally entitled. It is not just for 1 year but for several years, not just one falsification but repetitive falsifications which resulted in determined overpayments of $17,000 for 3 years for one partnership. He himself testified before the committee that there were seven partnerships and there was a period of 7 to 8 years where these kinds of arrangements existed—those records, as others have said, not being available for examination.

Who brought these charges forward? Mr. Dorr's brother, also a partner in these family-owned trusts and farms, farming operations. He provided a tape recording of a telephone conversation to support these contentions he was making, and so we have on transcript Mr. Thomas Dorr's own words, his own statements about these matters.

At the end of that process of reviewing all of the information, I came to the conclusion, regretfully so, that Mr. Dorr does not meet the minimum requirements of honesty and integrity for the position he has now been recessed appointed to and is being considered for by this body today, and that his attitudes and his ideologies concerning the rural Americans he is supposed to serve make him an unacceptable choice for the Rural Development Under Secretary. I say that regretfully.

I served as State auditor for Minnesota for 4 years. I had the responsibility of upholding the public trust and oversight for the proper expenditure of State and local funds. I took very seriously the responsibility to approach these matters objectively, knowing I was going to be accused of being partisan, unprincipled, and unfair. I always tried to get the facts, set forth the facts, determine what the facts were, and let the facts make the determination one way or another.

I regret some of the assertions that this is a witch hunt or that it is unsubstantiated, and I refer to the Farm Service Agency's own letter, based on reviews both in 1996 and in 2001, which concluded that the arrangement between Mr. Dorr's Pine Grove Farms and each of these trusts—quoting FSA—was a crop share arrangement, not the custom farming arrangement it was represented to be.

It was on that basis that the trusts were required to pay some $17,000 in farm program payments they had improperly received for those years, but that did not occur until 2001 and in fact they were not even repaid until the summer of 2002, after Mr. Dorr had been nominated for this high office.

In fact, I have a letter from the USDA to Mr. Dorr dated June 5, 2002. Mr. Dorr, in his own comments to his brother, according to the transcript, admitted that what he had charged for a custom fee is not a custom fee, ''it is actually crop rental income to me. That is my share of the income.'' Asked why he was following these procedures, he said it was to avoid a $50,000 payment limitation to Pine Grove Farms.

At another point the transcript says: Mr. Dorr, I, we filed away the farm, the trust land—both the Melvin Dorr trust and the Harold Dorr trust are operated with ASCS—to quite frankly avoid payment and limitations. Okay?

Now, we can all decide what to do with these facts, but I regret, for those who do not want to face them and claim they do not exist, we have a standard for this high office. Farmers in Minnesota, as do other farmers in this country, apply to this office for program funding. They deserve someone who can administer the programs faithfully because they have practiced them honestly.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time is remaining on either side?

The PRESIDING OFFICER. There are 7 minutes on the minority side and 5 minutes on the majority side.

Mr. HARKIN. Madam President, I yield myself about 4 minutes right now.

There have been some statements made regarding the fact that the Office

of Inspector General has somehow exonerated Mr. Dorr; that it found no wrongdoing. That is just simply not the case at all. Federal law provides criminal penalties for knowingly making false statements for the purpose of obtaining farm program payments. The USDA Office of Inspector General looked at all of this and they referred it. The OIG found enough concerns about Mr. Dorr's dealings with the USDA Farm Service Agency to refer the matter to the U.S. Attorney for the Northern District of Iowa.

As I said before, the U.S. attorney declined to proceed because the statute of limitations had run. So attempts by the administration to characterize this as an exoneration are simply wrong. Procedural technicalities do not equate to no wrongdoing.

I ask unanimous consent that a letter from the U.S. Attorney for the Northern District of Iowa dated February 2, 2002, be printed in the RECORD.

U.S. DEPARTMENT OF JUSTICE,
February 7, 2002.

S/A DALLAS L. HAYDEN,
U.S. Department of Agriculture,
Great Plains Region,
Mission, KS.

DEAR MR. HAYDEN: After reviewing the investigative report dated September 26, 2001, regarding the above subject and our telephone discussion of this date, we are declining criminal prosecution and any affirmative civil enforcement due to statute of limitations issues.

Sincerely,

CHARLES W. LARSON, SR.,
United States Attorney.
By: JUDITH A. WHETSTINE,
Assistant United States Attorney.

Mr. HARKIN. This is a letter to Dallas Hayden. I do not know who Dallas Hayden is. It says, regarding Thomas C. Dorr, Marcus, IA:

Dear Mr. Hayden: After reviewing the investigative report dated September 26, 2001, regarding the above subject [that is Thomas Dorr] and our telephone discussion of this date, we are declining criminal prosecution and any affirmative civil enforcement due to statute of limitations issues. Sincerely, Charles W. Larson, Sr., United States Attorney.

So to characterize this as being an exoneration—he was exonerated because he beat the rap. He escaped the statute of limitations. That is hardly being exonerated.

Again, look at what he said with his own words, saying he had set this up to get around the payment limitation. These are Mr. Dorr's own words.

We know crop shares are misrepresented for two of the entities in this complex web he has woven for himself. We do not know about the rest, and that is what we did not have sufficient information about—about the other corporations, partnerships, and individuals involved.

So the committee requested additional documents. We asked for additional documents and we asked the nominee additional questions. I believe these were reasonable requests pertaining to valid questions.

Secretary Veneman made clear in her letter back to the committee that neither the Department nor the nominee would cooperate with or provide any more information to the committee.

Almost without exception, nominees seek to clear up and resolve any questions about the propriety of their financial dealings most certainly when they involve the Federal Government. In this case, Mr. Dorr refused to provide information and answer questions. Instead, he and the administration decided to stonewall and withhold critical information. That is why 44 Senators said we do not want to take action until the nominee furnishes the requested information and, two, a hearing under oath is held on Mr. Dorr's nomination according to committee rules and normal practice.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. How much time remains on both sides of the issue?

The PRESIDING OFFICER. There are 5 minutes on the majority side and 3 minutes on the minority side.

Mr. COCHRAN. I yield the remainder of our time to the distinguished Senator from Iowa, Mr. GRASSLEY.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, we have just heard that Mr. Dorr escaped prosecution because of the statute of limitations. That is to assume guilt. There were not charges filed, and I think it is wrong for us to assume anybody is guilty, under our system of law that a person is innocent until proven guilty.

I wish to go to some records from people who live within no more than 25 miles of this operation and explain what authorities for the U.S. Department of Agriculture had to say about this, and I will enter these two letters in the RECORD. One is January 8, 1997, from Michael Houston, county executive director of the Farm Service Administration. It says:

The Cherokee County Committee met on December 19, 1996, and determined that M.G. Dorr Irrevocable Trust had a shares violation for the years 1993, 1994 and 1995; that is the Trust's total contributions to the farming operation were not commensurate with the claimed shares for the crop years 1993, 1994 and 1995.

The County Committee [meaning the county committee of the Farm Service Agency of the U.S. Department of Agriculture] determined a refund will be required but there was no criminal intent.

Then, on February 4, 2002, we have this letter signed by the same Michael Houston. It is entitled ''End of Year Review, 1994–1995.''

The Cherokee County Committee reviewed the End of Year Review, in particular the worksheet number 9.5, pages 1 and 2—attached. The County Committee determined that there was no evidence of receiving benefits indirectly or directly that would exceed the maximum payment limitations. The County Committee also agrees that there was no evidence that the Dorr's Pine Grove Farm nor Tom Dorr participated in a scheme or device to evade the maximum payment limitations regulations.

The End of Year Review for the year 2000 concluded that the Dorr's Pine Grove Farms had no deficiencies.

I ask unanimous consent to have those printed in the RECORD.

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

U.S. DEPARTMENT OF AGRICULTURE,
FARM SERVICE AGENCY,
Cherokee, IA, January 8, 1997.

PAUL R. DORR,
Ocheyedan, IA.

DEAR SIR: The Cherokee County Committee met on December 19, 1996 and determined that M. G. Dorr Irrevocable Trust had a shares violation for the years 1993, 1994 and 1995; that is the Trust's total contributions to the farming operation were not commensurate with the claimed shares for the crop years 1993, 1994, and 1995.

The County Committee determined a refund will be required but there was no criminal intent.

Sincerely.

MICHAEL W. HOUSTON,
County Executive Director.

FEBRUARY 4, 2002.

DORR'S PINE GROVE FARMS,
Marcus, IA.

DEAR MR. DORR: The Cherokee County Committee reviewed the End of Year Review, in particular the worksheet #9 5 pages 1 & 2 (attached). The County Committee determined that there was no evidence of receiving benefits indirectly or directly that would exceed the maximum payment limitation. The County Committee also agrees there was no evidence that Dorr's Pine Grove Farm nor Tom Dorr participated in a scheme or device to evade the maximum payment limitation regulations.

The End of Year Review for the year 2000 concluded that the Dorr's Pine Grove Farms had no deficiencies.

Any questions please call (712) 225–5717. Thank you.

Sincerely,

MICHAEL W. HOUSTON,
County Executive Director,
Cherokee County FSA Office.

Mr. GRASSLEY. But I think I want to go to the bigger picture in ending my justification for this confirmation. That goes back to all that we heard during the year 2001, when this nomination was presented to the Senate, going into the year 2002. There were a lot of organizations that testified against his nomination. There were a lot of accusations made. There was a lot of discussion. There were a lot of newspaper articles.

This may not be a sound way to make a judgment about whether something is right or wrong, but if I hear from the grassroots of Iowa right away about a nomination, I take that much more seriously. But most of the accusations against Tom Dorr came after there were articles in the New York Times and the Washington Post, and then interest in this nomination in the Iowa newspapers came about the same time, and the accusations that were put in place.

Then I heard something. Obviously, when you hear from your constituents against a nominee you want to take that into consideration. So then nothing happened to this nomination until the President has pushed it, during the

new Congress. In the meantime, then, Secretary Dorr has been in a position for well over a year. During that 1 year, none of the people or organizations that came out so strongly against Tom Dorr in the previous Congress has raised complaints about his doing the job that he is doing. It tells me, then, we ought to look at on-the-job performance as criteria for this person moving forward with this nomination.

That is what I ask my colleagues to do as they consider it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Madam President, how much time remains?

The PRESIDING OFFICER. There are 3 minutes remaining.

Mr. HARKIN. And how much on the other side?

The PRESIDING OFFICER. All time has expired.

Mr. HARKIN. I just have 3 minutes left? I will try to sum up here.

Madam President, as I said in the beginning I don't take any pleasure in what we are doing this morning and the position I am taking. In my 29 years here, 10 in the House and 19 in the Senate, I have never opposed an Iowan for a position in the Federal Government—under the Reagan administration, Ford, Carter, any of them. It does not give me a great deal of pleasure to oppose this one.

I think the record is clear. The record is clear that this individual, in his own words, said he misrepresented to the Federal Government what he was doing in order to avoid payment limitations.

These are not my words. These are his own words on tape. It is his own words when he denigrated racial diversity, ethnic diversity, religious diversity, in saying counties in Iowa which were very successful—were most successful—lacked diversity, and there is something there that caused that because they didn't have racial, ethnic, or religious diversity. Those were his own words.

It was Mr. Dorr's own words when he said you drive around Iowa and you see a $10,000 house and you see 10 cars, he said, which confirms my ''10 cars-$10,000 home theory,'' denigrating poor people.

Sure they may have a lot of cars around because they can't afford a new one. They take parts off of one or another, we know that.

He said the more you help the more you hinder. But then he didn't mind taking Government money. He didn't mind taking student loans when he was a student. He didn't mind taking Federal payments for his farm. That didn't seem to hinder him any.

Last, on the OIG, I have to say again, the Office of Inspector General referred this to the U.S. attorney for prosecution. The U.S. attorney did not prosecute because the statute of limitations had run, that is all. They didn't say he was guilty or not, but that is not an exoneration either.

But on the matter of racial diversity, there was some mention about whether Ralph Paige supports Mr. Dorr. I previously put in the RECORD a letter opposing Mr. Dorr's nomination signed by the Federation of Southern Cooperatives, which is Mr. Paige's operation.

One of my friends in Iowa said if you can't get along with your neighbors, you probably can't get along with too many other people. This is in the record, in the newspaper, his neighbors talking about him. Verdell Johnson a Republican, a former neighbor who lives in a nearby Cleghorn, said:

He would be very counter to rural development, unless you would consider that rural development is one farmer in every county.

Marvin Pick, whose farm is next to one of Dorr's farms said: ''Who are his friends? I don't think he's got any.''

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARKIN. Madam President, until we get the documents for which we have asked, and until such time as we have him under oath to answer questions about these dealings, I do not think the Senate should invoke cloture and proceed with a vote until such time as we get that documentation.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 237, the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development.

Bill Frist, Thad Cochran, Saxby Chambliss, Rick Santorum, Norm Coleman, Craig Thomas, Jeff Sessions, Pat Roberts, Kay Bailey Hutchison, George Voinovich, Chuck Grassley, Wayne Allard, Michael Enzi, Elizabeth Dole, John Sununu, Sam Brownback, John Warner.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call is raised.

The question is, Is it the sense of the Senate debate on Executive Calendar No. 237, the nomination of Thomas C. Dorr to be Under Secretary of Agriculture for Rural Development shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The PRESIDING OFFICER. (Mr. ENZI). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 39, as follows:

[Rollcall Vote No. 454 Ex.]

YEAS—57

Akaka	Dole	McConnell
Alexander	Domenici	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Nelson (NE)
Bennett	Fitzgerald	Nickles
Bond	Frist	Pryor
Brownback	Graham (SC)	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chafee	Hatch	Smith
Chambliss	Hutchison	Snowe
Cochran	Inhofe	Specter
Coleman	Jeffords	Stevens
Collins	Kyl	Sununu
Cornyn	Lincoln	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

NAYS—39

Baucus	Dayton	Lautenberg
Bayh	Dodd	Leahy
Biden	Dorgan	Levin
Bingaman	Durbin	Mikulski
Boxer	Feingold	Murray
Breaux	Feinstein	Nelson (FL)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carper	Inouye	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kohl	Stabenow
Daschle	Landrieu	Wyden

NOT VOTING—4

Edwards	Kerry
Graham (FL)	Lieberman

The PRESIDING OFFICER. On this vote the yeas are 57, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

CLOTURE MOTION

Under the previous order, the clerk will report the motion to invoke cloture.

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

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. Reserving the right to object, what is the request?

The PRESIDING OFFICER. The Senator has suggested the absence of a quorum.

Mr. COCHRAN. Mr. President, I suggest there is a quorum present.

The PRESIDING OFFICER. Is there objection, then?

Mrs. HUTCHISON. I object.

The PRESIDING OFFICER. Objection is heard.

Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 238, the nomination of Thomas C. Dorr, of Iowa, to be a member of the Board of Directors of the Commodity Credit Corporation.

Bill Frist, Thad Cochran, Norm Coleman, Charles Grassley, Wayne Allard, Jim Bunning, Conrad Burns, Mitch McConnell, John Cornyn, Lamar Alexander, Larry Craig, Richard G. Lugar, Peter

Fitzgerald, George Allen, Don Nickles, John Ensign, James Inhofe.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 238, the nomination of Thomas C. Dorr, of Iowa, to be a member of the Board of Directors of the Commodity Credit Corporation, shall be brought a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 39, as follows:

The result was announced—yeas 57, nays 39, as follows:

[Rollcall Vote No. 455 Ex.]

YEAS—57

Akaka	Dole	McConnell
Alexander	Domenici	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Nelson (NE)
Bennett	Fitzgerald	Nickles
Bond	Frist	Pryor
Brownback	Graham (SC)	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chafee	Hatch	Smith
Chambliss	Hutchison	Snowe
Cochran	Inhofe	Specter
Coleman	Jeffords	Stevens
Collins	Kyl	Sununu
Cornyn	Lincoln	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

NAYS—39

Baucus	Dayton	Lautenberg
Bayh	Dodd	Leahy
Biden	Dorgan	Levin
Bingaman	Durbin	Mikulski
Boxer	Feingold	Murray
Breaux	Feinstein	Nelson (FL)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carper	Inouye	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kohl	Stabenow
Daschle	Landrieu	Wyden

NOT VOTING—4

Edwards	Kerry
Graham (FL)	Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. HARKIN. Mr. President, I move to reconsider the vote on this vote and the previous vote.

Mr. REID. I move to lay both motions on the table.

The motions to lay on the table were agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

The Senator from Washington.

UNANIMOUS CONSENT REQUEST—S. 1853

Ms. CANTWELL. Mr. President, I know we are going to move on to other legislation and I am sure we are going to hear from our leaders today about what the rest of the week's schedule looks like and possible strategy for adjournment, but I think it is critically important before we adjourn we address the unemployment needs of Americans. While we in this body last year adjourned without fully taking care of the unemployed and the unemployment benefit extension program, I think it is unconscionable we would do that this year.

While the economy may have slightly improved, we still have huge unemployment across the country. For us in the State of Washington, with nearly 7½ percent unemployment, this problem continues.

Unemployment benefit insurance is a stimulus. For every dollar paid in unemployment benefits, it generates $2.15 into the economy. This is what we need to be doing to take care of Americans. We cannot continue to give tax breaks to the wealthiest of Americans and tax incentives in the Energy bill and tax breaks in a lot of other programs and not take care of basic Americans who would rather have a job but do not have that opportunity and are depending on those unemployment benefits to make mortgage and health care payments.

Last year we really did leave Americans with a lump of coal in their stocking. Instead of saying to them we are going to make sure that as the economy starts to recover we are taking care of you to give you that security, we said we are going to terminate this program. Even though the Senate did its homework and the House failed to pass this, we left many Americans without that security.

Constituents of mine basically took money out of their long-term pension savings at huge penalties just to make up for the unemployment benefit program that would not continue. It is imperative before we adjourn we pass the Unemployment Benefit Program extension.

I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 1853, a bill to extend unemployment insurance benefits for displaced workers; that the Senate proceed to its immediate consideration, the bill be read a third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. Reserving the right to object, and I will object, very simply put, when the Democrats were in control of the House of Representatives, the Senate, and the Presidency back in 1993, the unemployment rate, when they terminated the program, was 6.4 percent nationally. It is now 6.0 percent, lower than it was in 1993 when every Democrat voted to terminate the program. So with that, I object.

The PRESIDING OFFICER. The objection is heard.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2861, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2861) to make appropriations for the Departments of Veterans Affairs and Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Bond/Mikulski amendment No. 2150, in the nature of a substitute.

Dayton amendment No. 2193 (to amendment No. 2150), to fully fund the Paul and Sheila Wellstone Center for Community Building.

AMENDMENT NO. 2199 TO AMENDMENT NO. 2150

Mr. BOND. Mr. President, I have some amendments that have been cleared on both sides. First, I send an amendment to the desk for Mr. JEFFORDS, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. EDWARDS, dealing with a study on Prevention of Significant Deterioration and Nonattainment New Source Review.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. JEFFORDS, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. EDWARDS, proposes an amendment numbered 2199.

Mr. BOND. 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:

(Purpose: To include an evaluation of the impact of a final rule promulgated by the Administrator of the Environmental Protection Agency in a study conducted by the National Academy of Sciences)

At the appropriate place, add the following:

SEC. ___. NATIONAL ACADEMY OF SCIENCES STUDY.

The matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''ENVIRONMENTAL PROTECTION AGENCY'' in title III of division K of section 2 of the Consolidated Appropriations Resolution, 2003 (117 Stat. 513), is amended—

(1) in the first sentence of the fifth undesignated paragraph (beginning ''As soon as''), by inserting before the period at the end the

following: '', and the impact of the final rule entitled 'Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Equipment Replacement Provision of the Routine Maintenance, Repair and Replacement Exclusion', amending parts 51 and 52 of title 40, Code of Federal Regulations, and published in electronic docket OAR-2002-0068 on August 27, 2003''; and

(2) in the sixth undesignated paragraph (beginning ''The National Academy of Sciences''), by striking ''March 3, 2004'' and inserting ''January 1, 2005.''

Mr. JEFFORDS. Mr. President, in January 2003, the Senate approved a very similar amendment by Senator INHOFE to the Fiscal Year 2003 consolidated appropriations bill. That amendment initiated a study at the National Academy of Sciences to look at the effects of the EPA's first set of New Source Review rules, published on December 31, 2002, on emissions, human health, pollution control technology, and energy efficiency.

That amendment provided that the National Academy will submit an interim report to Congress no later than March 3, 2004, approximately 1 year after passage.

In September 2003, the EPA provided an oral authorization to the academy to begin work. Unfortunately, the agency has still not provided the contract papers necessary for the project to start. I do not know what the holdup might be.

However, that study, if it ever gets funded by EPA, would not review the effects of the second set of NSR rules on routine equipment replacement which were published on October 27, 2003. It should and, since EPA has not yet funded the study and it has not started, there is still plenty of time to revise the mission statement and do the work. I am advised by academy staff that this expansion would entail minimal additional cost to EPA.

As I have noted, my amendment simply extends the NAS study to cover the effects of the second set of rules looking at the same criteria and extends the interim report deadline by 10 months to January 1, 2005.

I am pleased the managers have agreed to accept this amendment.

Mr. BOND. Mr. President, we are ready to accept the amendment by voice vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 2199.

The amendment (No. 2199) was agreed to.

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

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2200 TO AMENDMENT NO. 2150

Mr. BOND. I send an amendment to the desk on behalf of Senator INHOFE, providing for implementation plans and no preclusion of other provisions relating to the Grand Canyon Visibility Transport Commission.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. INHOFE, proposes an amendment numbered 2200.

Mr. BOND. 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:

(Purpose: To include provisions relating to designations of areas for $PM_{2.5}$ national ambient air quality standards)

On page 106, between lines 20 and 21, insert the following:

SEC. ___. DESIGNATIONS OF AREAS FOR $PM_{2.5}$ AND SUBMISSION OF IMPLEMENTATION PLANS FOR REGIONAL HAZE.

(a) IN GENERAL.—Section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) is amended by adding at the end the following:

''(6) DESIGNATIONS.—

''(A) SUBMISSION.—Notwithstanding any other provision of law, not later than February 15, 2004, the Governor of each State shall submit designations referred to in paragraph (1) for the July 1997 $PM_{2.5}$ national ambient air quality standards for each area within the State, based on air quality monitoring data collected in accordance with any applicable Federal reference methods for the relevant areas.

''(B) PROMULGATION.—Notwithstanding any other provision of law, not later than December 31, 2004, the Administrator shall, consistent with paragraph (1), promulgate the designations referred to in subparagraph (A) for each area of each State for the July 1997 $PM_{2.5}$ national ambient air quality standards.

''(7) IMPLEMENTATION PLAN FOR REGIONAL HAZE.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 3 years after the date on which the Administrator promulgates the designations referred to in paragraph (6)(B) for a State, the State shall submit, for the entire State, the State implementation plan revisions to meet the requirements promulgated by the Administrator under section 169B(e)(1) (referred to in this paragraph as 'regional haze requirements').

''(B) NO PRECLUSION OF OTHER PROVISIONS.—Nothing in this paragraph precludes the implementation of the agreements and recommendations stemming from the Grand Canyon Visibility Transport Commission Report dated June 1996, including the submission of State implementation plan revisions by the States of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, or Wyoming by December 31, 2003, for implementation of regional haze requirements applicable to those States.''.

(b) RELATIONSHIP TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Except as provided in paragraphs (6) and (7) of section 107(d) of the Clean Air Act (as added by subsection (a)), section 6101, subsections (a) and (b) of section 6102, and section 6103 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 463), as in effect on the day before the date of enactment of this Act, shall remain in effect.

Mr. BOND. We have no further statements on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2200) was agreed to.

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

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2193

Mr. DAYTON. Mr. President, I call up amendment No. 2193 and ask for its immediate consideration.

The PRESIDING OFFICER. Amendment No. 2193 is pending.

Mr. DAYTON. I defer to the ranking member.

Ms. MIKULSKI. First, we acknowledge the very able Senator from Minnesota has offered an amendment for the full funding of the Wellstone Memorial in this year's appropriation.

We acknowledge the vigorous advocacy of Senator DAYTON for not only Minnesota but for his dear and beloved colleague, Senator Wellstone, of happy memory. We all remember with great melancholy that terrible day when Senator Wellstone lost his life. We promised we wanted to have a permanent memorial to the legacy of truly an extraordinary American. I assure the Senator from Minnesota and all the people of Minnesota, we have the will to help complete this memorial. We are a little tight on the wallet.

I wonder if the Senator would accept essentially a 2-year funding promise, that we fund this this year at $500,000 and that next year we complete it with $700,000. This way it keeps the money in the pipeline so the memorial can be sure it can meet its bottom line, and that we can continue to stay the course on creating this most appropriate memorial to our beloved colleague.

Would the Senator accept that as a way of keeping the process moving forward but understanding that we are a bit tight this year? I know, because the Wellstone legacy was in championing veterans, I say to my colleague from Minnesota, we have been able to add $1.3 billion, and if I know our colleague, that is what he would be happy about.

But we are not going to abandon the memorial, either. Does this sound like a reasonable, rational, and acceptable approach?

Mr. DAYTON. I thank the Senator and the chairman of the subcommittee. I know these two leaders have been under the greatest of pressures and financial strictures. They both have performed heroically in getting the money for veterans.

My colleague is right. My former colleague, Senator Wellstone, would be happy beyond belief for the veterans of Minnesota and of America. I thank you for your extraordinary efforts. I salute the efforts of both distinguished colleagues and I thank them for this matter.

I certainly meant no disrespect to anyone yesterday in my remarks. My distress was primarily because I felt that again my friend Paul's memory would not be well served by having the folks in Minnesota or anywhere else losing out. So his memory would be served, I wanted this memorial, this

tribute from the Senate, the House of Representatives, and the President of the United States, and they have been very supportive and gracious throughout all this. We finally fulfill that.

I thank the chairman and ranking member for making this possible, and I yield the floor.

Ms. MIKULSKI. I further say to my unflagging colleague from Minnesota, this $500,000 will not come out of other Minnesota projects. OK? The memorial to Senator Wellstone is a national project of national impact and, therefore, will not impact upon the Minnesota projects which are also so important and needed.

Mr. DAYTON. I thank my colleague.

AMENDMENT NO. 2193, AS MODIFIED

MS. MIKULSKI. Mr. President, I send to the desk a modification of the Dayton amendment and ask such modification reflect the agreement we had here and I urge its adoption.

The PRESIDING OFFICER. Is there objection to modifying the Dayton amendment? Without objection, it is so ordered.

The amendment (No. 2193), as modified, is as follows:

On page 58, line 21, strike ''$1,112,130,000'' and insert ''$1,111,530,000''.

On page 125, between lines 7 and 8, insert the following:

SEC. 418. There shall be made available $1,500,000 to the Secretary of Housing and Urban Development for the purposes of making the grant authorized under section 3 of the Paul and Sheila Wellstone Center for Community Building Act.

Mr. BOND. We are happy to accept it. We appreciate working with the Senator from Minnesota, in fact both Senators from Minnesota. Senator DAYTON and Senator COLEMAN have both been very strong, vocal supporters. We know how important it is to Minnesota. We are sorry we are in such tight fiscal constraints, but we want to put the money in this year with the sure knowledge that we will be able to come back and finish it next year, which I trust will not delay the construction of the memorial.

Furthermore, since Senator COLEMAN has been active on this, on his behalf, I ask that he be listed as a cosponsor of the amendment. I know the people of Minnesota want to know both of their Senators are very vigorous champions of this great memorial to a man we will always miss.

I didn't always agree with him but it was always interesting, and I had many, many good and pleasant exchanges with him. We worked together on many issues. The Government Printing Office now uses soy ink because of our amendment. We used to tease each other, that in Minnesota he would claim it as the Wellstone amendment; I would claim it as the Bond amendment in Missouri. But neither one of us would mention the cosponsor in our States.

But we worked closely together. His is a wonderful spirit that is still with us.

I believe there are no further comments.

The PRESIDING OFFICER. Without objection, the Senator will be added as a cosponsor.

Mr. BOND. I ask we adopt it on a voice vote.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment as modified.

The amendment (No. 2193), as modified, was agreed to.

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

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DAYTON. Mr. President, may I have 1 minute?

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank, again, the chairman for his wonderful remarks. I know my departed colleague enjoyed his camaraderie with his colleagues here as much as he enjoyed the debates and disagreements. He respected all of them as individuals and the process as we are all engaged in as the essence of our democracy.

I thank the distinguished Senator from Missouri for those gracious comments. Again, I thank the ranking member, the great Senator from Maryland, for her help in this matter and our successful resolution.

I wish to give credit to my colleague, Senator COLEMAN, who is chairing a hearing of the Permanent Subcommittee on Investigations. He has been very supportive of this throughout and was instrumental earlier this year in getting the funding raised to its current level. I cannot speak for him, but I am sure he is grateful, as I am, that this has been resolved.

Thank you, Mr. President. I yield the floor.

Mr. NELSON of Florida. Mr. President, I rise to talk about the VA–HUD NASA flat-line budget. The bill has NASA funded at $15.3 billion. This is the same as the amount enacted in fiscal year 2003. As many of you may recall, I have fought to plus up the shuttle upgrades program for years. I still firmly believe that adequate supportability and safety upgrades budgets, coupled with supporting infrastructure, are needed to keep the shuttle operating safely.

The Columbia Accident Investigation Board chaired by Admiral Gehman concluded that throughout the decade, the Shuttle Program has had to function within an increasingly constrained budget. Both the shuttle budget and workforce have been reduced by over 40 percent during the past decade. The White House, Congress, and NASA leadership exerted constant pressure to reduce or at least freeze operating costs. As a result, there was little margin in the budget to deal with unexpected technical problems or make shuttle improvements.

Most people believe we will continue to fly the shuttle for the life of the station, but we continue to base our budgetary decisions on the long-lost premise that the shuttle will be replaced in the near term.

The fact of the matter is that the shuttle must return to flight to complete the assembly of the International Space Station. Return to flight will take funds, and we don't know if NASA has enough funds to fully cover the cost of return to flight since the fiscal year 2004 supplemental was never sent to Congress and the fiscal year 2005 budget remains embargoed. We do know that NASA plans to reprogram $200 million out of station reserves and $107 million out of the Service Life Extension Program, SLEP, to cover some of the fiscal year 2004 costs. The requisite funds should not be robbed from other NASA accounts as has been practiced in the past. Perhaps it would be better to provide NASA enough money to adequately fund all the NASA initiatives without resorting to starving one account to feed another.

The shuttle needs to be able to fly safely as long as this country needs it. To even consider using upgrade and infrastructure funds for return to flight is unconscionable and certainly not in the long-term best interest of our Nation's space program.

It is important that we build, maintain and fly the safest vehicle possible. We cannot afford to have accountants making technical decisions instead of engineers and program managers if we want to maintain our technology edge.

Reducing the NASA budget for the International Space Station program in fiscal year 2004 could force NASA to transfer skilled, knowledgeable personnel—civil service and contractor—to other programs. A lesson learned from the *Columbia* accident was that we must retain the technical knowledge within human space flight programs so that potential life-threatening problems can reliably be identified and correctly addressed.

The science and technology payback from the ISS is proportional to the size of the crew working there. There are now two crew members onboard but the program plan calls for an increase up to seven when the shuttle is returned to flight and emergency crew return capability is onboard. That increase also requires that the ISS's life support systems be beefed up to provide greater oxygen generation and carbon dioxide removal among other capabilities. The fiscal year 2004 ISS budget request includes capability upgrades that are the upfront systems that will allow that increase in crew size. This development is programmed to be continued in fiscal year 2005 from program budget reserves. If the ISS budget is reduced in fiscal year 2004 that reduction will come from existing reserves that would have been carried forward to fiscal year 2005 and paid for the continuation of these necessary developments. A cut this year will most

likely force NASA to cut back on this development and further delay crew size increase and consequently the scientific return from the ISS.

Because a reduction in the ISS budget for fiscal year 2004 will likely be taken from program reserves that is like tying one arm behind the program's management. ISS is a developing human space flight vehicle, with inherent schedule and technical risks. Managing the unknowns that will occur requires appropriate flexibility in the management's budget, budget reserves. Reducing the program budget and as a consequence reducing those reserves is simply dangerous.

We cannot allow this budget to be flat lined from fiscal year 2003. NASA cannot do everything it hopes to do on the cheap. The fiscal year 2004 Presidential request should be approved and in addition $300 million added to ensure human space flight achieves its objectives without jeopardizing safety and delays to completing the ISS. I urge my colleagues to join me in supporting an increase to the NASA top line.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, I would like to take this opportunity to express my appreciation to Chairman BOND and Senator MIKULSKI for their hard work in developing the Senate fiscal year 2004 VA–HUD and Independent Agencies appropriations bill. Considering the low authorization level for this important bill, they have done an excellent job maintaining priorities in Veterans health care, the environment and housing. It is vital that the full Senate-passed amount for Veterans healthcare be maintained in conference so that we don't lose more ground in caring for those who have borne the battle. However, it is obvious that additional resources are critically needed for many programs in these areas if they are to work as intended.

Understanding the difficult authorization level facing this committee, I would still like to express my strong support for additional funding for YouthBuild in the fiscal year 2004 VA–HUD and Independent Agencies conference report. Despite the repeated support of over 57 of our Senate colleagues for a funding level of $90 million, and despite the President's Budget request and House-passed level of $65 million, the Senate bill could only provide $60 million for a program that has proven its value and that is crucial to the lives of many young people. At the same time, 1,400 YouthBuild participants who are building housing for homeless and low-income people have lost access to AmeriCorps education awards due to the cutbacks in AmeriCorps.

Each year, YouthBuild receives strong bipartisan support because the program works. Eighty-five percent of students who complete the YouthBuild program either secure a job—at an average wage of more than $7.60 per hour—or go on to postsecondary education. The program's success rate is especially notable since YouthBuild serves an at-risk population, 80 percent of whom have previously dropped out of high school.

YouthBuild is a uniquely comprehensive program that offers at-risk youth an immediately productive role rebuilding their communities. Along with attending basic education classes for 50 percent of the program time, students receive job skills training in the well-paid construction field, personal counseling from respected mentors, a supportive peer group with positive values, and experience in community leadership and civic engagement. To date, 25,000 YouthBuild students have built over 10,000 units of affordable housing.

Despite its obvious success, YouthBuild is losing ground with more than 30 sites that have closed due to lack of funds since 1996. Most of the remaining programs enroll 25 percent fewer students than they did in 1997. In 2001, 56 experienced YouthBuild sites that qualified for funding from HUD did not receive it solely due to a lack of funding. Only two local programs have been funded continuously since 1994.

During the House-Senate conference, I hope that the Senate will yield to the House and provide $65 million for YouthBuild as the President has requested and the House of Representatives has provided. This is the least we can do. We must continue to fight to open the doors of opportunity and service to America's youth by supporting YouthBuild.●

Mr. MCCAIN. Mr. President, I want to thank both Senator BOND and Senator MIKULSKI for their hard work on this important legislation which provides federal funding for the Departments of Veterans Affairs (VA) and Housing and Urban Development, and Independent Agencies. Unfortunately, I must again speak about the unacceptably high funding levels of parochial projects in this appropriations bill. Overall, this legislation contains approximately $1.2 billion in unrequested spending and locality-specific earmarks.

The Committee provides $29.3 billion in discretionary funding for the VA. That amount is $1.3 billion more than the President's budget request and $2.8 billion above the amount in fiscal year 2003. Some progress has been made to reduce the overall amount of earmarks for the VA in this spending bill.

Among other Senators who have stood on the Senate floor to fight for additional funding for veterans' healthcare, I am concerned that the Committee has directed critical dollars from veterans' healthcare to fund spending projects that have not been properly reviewed. Certain provisions funded under the VA in this legislation illustrate that Congress still does not have its priorities in order.

One especially troubling expense, neither budgeted for nor requested by the Administration over the past twelve years, is a provision that directs the VA to continue the twelve year old demonstration project involving the Clarksburg, WV, Veterans Affairs Medical Center (VAMC) and the Ruby Memorial Hospital at West Virginia University. Several years ago, the VA–HUD appropriations bill contained a plus-up of $2 million for the Clarksburg VAMC that ended up on the Administration's line-item veto list and since then the millions keep flowing.

Three years ago, the Committee 'recommended' $1 million for the design of a nursing home care unit at the Beckley, WV, VAMC. Two years ago they strengthened their report language urging 'the VA to accelerate the design of the nursing home care unit at the Beckley, WV VAMC.'' Last year, they have urged the VA ''to include sufficient funding'' for a new nursing home care unit at the Beckley, WV VAMC. This year, they urge the VA to include sufficient funding in the 2005 budget request.

For St. Louis, MO, the Committee 'encouraged' the VA to pursue an innovative approach at a cost of $7 million for leasing parking spaces at the John Cochran Division of the VA Medical Center in St. Louis as a means to address a parking shortfall at the VA hospital.

Additionally, the Committee ''supports continuation'' at the current spending level of the Rural Veterans Health Care Initiative at the White River Junction, VT VAMC. The current level is an astounding $7 million.

While I am encouraged by the increase specifically in veterans health care funding over last year's enacted levels, we must do much more. We made a promise to our veterans that we would take care of their mental and physical health needs incurred for their many sacrifices for our nation. The VA currently has an incredible backlog of claims. Currently, four out of every ten claims for veterans' disability benefits are decided incorrectly further contributing to the backlog. The millions in dollars wasted in pork barrel spending would go a long way to decreasing the backlog in veterans claims by funding additional claims adjudicators and training.

I would be remiss if I did not point out the provisions in this legislation related to AmeriCorps. Whether it is tutoring inner-city youth or fighting forest fires in the West, the lives of countless people are touched by AmeriCorps. AmeriCorps' efforts to reach out to those affected by natural disasters are paying serious dividends. Over 246,000 victims of fires, floods and hurricanes have been aided by AmeriCorps volunteers working in conjunction with groups such as the American Red Cross.

Despite AmeriCorps' countless success stories, the appropriators have funded AmeriCorps $93.2 million below

the President's request, while imposing incredibly restrictive report language that could very well fundamentally change the face of a very successful program.

I was heartened when I saw that the President requested funding to expand AmeriCorps to 75,000 volunteers in Fiscal Year 2004. This was an important first step on the road to large scale expansion of AmeriCorps. Despite the President's request, the appropriators took it upon themselves to ensure that we do not provide adequate funding to reach this ambitious level set forth by the President. The Appropriations Committee's counterparts in the House of Representatives funded AmeriCorps with $23.4 million more than the Senate, yet only believe that they can fund 55,000 volunteers.

Everybody is well aware of money management problems that the Corporation for National Service and AmeriCorps have faced over the last few years. I am confident that the change in leadership at the corporation should help minimize the potential for these same problems to repeat themselves. However, if we do not provide the amount of money the corporation says it will need to fully fund 75,000 volunteers, we are inviting a disastrous repeat of history. If we do not want to repeat this summer's battle for supplemental funds for AmeriCorps, we must fully fund AmeriCorps to the level that the Corporation feels is adequate, not the appropriators.

The last authorization for the AmeriCorps program lapsed in 1996. It is time to reauthorize the program. The Health, Education, Labor and Pensions Committee has oversight responsibility for this program. It is time that we hold hearings to reauthorize this program and markup the Call to Service Act, which I authored with Senator BAYH and Senator KENNEDY. If there is a need to impose restrictions on how AmeriCorps chooses its volunteers or how awards are given out, the HELP committee is where that debate needs to take place, not by the appropriators, without so much as a hearing. We have no idea what effect the restrictions in this legislation will have on AmeriCorps. We have not bothered to run them by the Corporation. Mr. President, we are failing in our oversight responsibilities.

The overwhelming support for AmeriCorps among the grassroots groups is clear. Recently, an event called Voices for AmeriCorps was staged. This 100-hour event featured 130 AmeriCorps Alumni and 51 Members of Congress. In all over 700 people, representing 47 states expressed their support for AmeriCorps. During the summer, letters were sent to the President urging him to support an emergency appropriation request for AmeriCorps. These letters were sent by a bipartisan group of 79 Senators, 228 members of the House of Representatives, 44 Governors and 148 Mayors. The list of supporters is not restricted to elected officials. 250 private sector leaders took out a full page ad in The New York Times expressing support. 1100 community organizations have shown their support. The support for AmeriCorps is clear. It is time that we acknowledge their efforts and not only fully fund the President's request but expand AmeriCorps to new levels.

This legislation also contains the funding for the Department of Housing and Urban Development. The programs administered by HUD help our nation's families purchase their homes, helps many low-income families obtain affordable housing, combats discrimination in the housing market, assists in rehabilitating neighborhoods and helps our nation's most vulnerable—the elderly, disabled and disadvantaged—have access to safe and affordable housing

Unfortunately, this bill shifts money away from many critical housing and community programs by bypassing the appropriate competitive process and inserting earmarks and set-asides for special projects that received the attention of the Appropriations Committee. This is unfair to the many communities and families who do not have the good fortune of residing in a region of the country represented by a member of the Appropriations Committee.

In the report accompanying this bill, the Appropriators have taken two accounts, originally created as competitive grant programs to be administered by HUD, and earmarked close to 100% of those accounts. This bill funds the Economic Development Initiative at $140 million. However, the report lists 331 earmarks for that program, totaling over $136 million. Similarly, the committee funds the Neighborhood Initiatives program at $21 million, with report language listing 20 earmarks, totaling over $20 million. I am deeply concerned that once competitive programs have become nothing more than slush funds to fulfill influential members' parochial interests.

Some of the earmarks for special projects in this legislation include:

$1,000,000 for the Tongass Coast Aquarium in Ketchikan, AK for improvements;

$400,000 for Love, Inc. in Fairbanks, AK for a social service facility;

$250,000 for the Alaska Aviation Heritage Museum in Anchorage for improvements;

$1,000,000 for Fort Westernaire in Golden, CO for the expansion of the Westernaire museum;

$500,000 for Miami Dade County, FL for the construction of the Miami Dade County Performing Arts Center;

$500,000 for the Hawaii Nature Center in Wailuku, HI for the Maui Renovation Project;

$500,000 for the Field Museum in Chicago, IL;

$100,000 for the Iowa State Fair Board in DesMoines, IA for a statewide awareness and education/exhibit.

$280,000 for the City of Waterloo, IA for the John Deere brownfield and bio-based incubator project;

$500,000 for the B&O Railroad Museum in Baltimore, MD for building renovations;

$187,500 for Heartland Corn Products in Winthrop, MN for construction of a new facility;

$100,000 for the Graveyard of the Atlantic Museum in Hateras, NC to complete construction;

$450,000 for the Johnny Appleseed Heritage Center, Inc. in Ashland County, OH for construction of facilities;

$200,000 for Holt Hotel in Wichita Falls, TX for continued renovations to the Holt Hotel;

$250,000 for the Walter Clore Wine and Culinary Center in Prosser, WA for costs associated with its construction;

$500,000 for Appalachian Bible College in Beckley, WV to complete its library resource center; and

$1,000,000 for the Huntington Area Development Council in Huntington, WV for the construction of a business incubator.

This bill also funds the Environmental Protection Agency which provides resources to help state, local and tribal communities enhance capacity and infrastructure to better address their environmental needs.

Mr. President, the most egregious provision under the EPA section is the language that would significantly change states' authority under the Clean Air Act in order to protect an engine manufacturer in Missouri. This policy change has been advanced to serve the concerns of Briggs and Stratton, although its September 2003 filing to the SEC indicated that there would not be ''a material effect on its financial condition or results of operations'' and it has not been able to substantiate job loss claims. However, what has been substantiated by the many public health, state environmental departments, and environmental groups opposed to this are the detrimental effects it would have on air quality including ozone levels in many states, including my own. On behalf of the health of the citizens of our respective states, every Senator in this chamber should oppose this blatant and unacceptable change in national air pollution control policy which restricts every state's ability to make decisions that best serve the economic and environmental interests of the state.

I support directing more resources to communities that are most in need and facing serious public health and safety threats from environmental problems. Unfortunately, after a review of this year's bill for EPA programs, I do not believe that we are responding to the most urgent environmental needs. Our nation's key environmental laws are an empty promise of protection without adequate enforcement. I am gratified that Senator LAUTENBERG's amendment was accepted to bring essential enforcement activities at EPA to levels comparable to last year's appropriation. Enforcement actions have been declining significantly in conjunction with the Administration's enforcement budget cuts. We cannot allow this trend to continue and uphold our responsibility to protect human health

and our vital natural resources under existing laws.

The funding priorities in this bill seem to be slanted toward satisfying parochial and institutional interests rather than providing for robust implementation of national environmental laws. Many of the earmarks provided for the EPA are targeted for consortiums, universities, or foundations. There are many environmental needs in communities back in my home state of Arizona, but these communities will be denied funding as long as we continue to tolerate earmarking that circumvents a regular merit-review process.

For example, some of the earmarks include:

An increase of $500,000 for the painting and coating assistance initiative through the University of Northern Iowa;

An increase of $500,000 for the Kenai River Center in Kenai, AK;

An increase of $1,000,000 for the University of South Alabama for the Center for Estuarine Research;

An increase of $250,000 for the Midwest Technology Assistance Center at the University of Illinois;

An increase of $400,00 for the County of Hawaii and the Hawaii Island Economic Development Board for community-based waste recycling and reuse system;

An increase of $425,000 for Southeastern Louisiana University for the Turtle Cove research station;

$1 million for the Solid Waste Authority of Palm Beach County, FL for continued construction of the Tri-County Biosolids Pelletization Facility;

$600,000 for the City of Jackson, TN for the Sandy Creek Sanitary Sewer Overflow Project;

$1 million for Washoe County, NV for the North Lemmon Valley Artificial Recharge Project;

$400,000 for Wright City, MO for the construction of an elevated water storage tank; and

$300,000 to the City of Lancaster to construct an advanced ultrafiltration membrane water treatment system in Lancaster County, PA.

While these projects may be important, why do they rank higher than other environmental priorities? It is also important to note that none of the earmarks for the EPA were even requested by the President's budget.

For independent agencies such as the National Aeronautics and Space Administration, this bill also includes earmarks of money for locality-specific projects such as:

An increase of $2.5 million to Marshall University in Bridgeport, WV for the Hubble Telescope Project;

An increase of $2.5 million to the University of Mississippi for the Enterprise for Innovative Geospatial Solutions;

An increase of $3 million for the University of Alaska for weather and ocean research;

An increase of $1 million to the Delaware Aerospace Education and Foundation in Kent County, DE;

An increase of $1.5 million for the Adventure Science Center in Nashville, TN for the Sudekum Planetarium;

An increase of $2 million to Texas Tech University in Lubbock, TX for equipment at the Experimental Sciences Building; and

An increase of $1 million to Utah State University in Logan, UT for the Intermountain Region Digital Image Archive and Processing Center.

I want to alert my colleagues to what I consider to be a very serious funding issue concerning the future of our space program.

As Chairman of the Senate Committee on Commerce, Science, and Transportation, which has authorizing jurisdiction over NASA, I am greatly concerned that we apparently have not learned from last February's tragic *Columbia* Space Shuttle accident. What I find to be particularly remarkable is that while the Appropriators were not able to fully fund NASA, somehow the accompanying report still earmarks $81.6 million worth of pork and unrequested items in NASA's Science, Aeronautics and Exploration Account. Clearly, now more than ever, we should be doing everything in our power to ensure we aren't short-changing NASA safety needs.

The Columbia Accident Investigation Board (CAIB), which was assigned to determine the cause of that accident and to prevent future accidents, describes NASA as, ''An Agency Trying To Do Too Much With Too Little.'' The CAIB report, released in August, describes NASA's budget situation as follows:

> Between 1993 and 2002, the government's discretionary spending grew in purchasing power by more than 25 percent, defense spending by 15 percent, and non-defense spending by 40 percent. NASA's budget, in comparison, showed little change, going from $14.31 billion in Fiscal Year 1993 to a low of $13.6 billion in Fiscal Year 2000, and increasing to $14.87 billion in Fiscal Year 2002. This represented a loss of 13 percent in purchasing power over the decade.

The report also raised very serious concerns regarding how earmarking has restricted NASA's ability to fund its priorities:

> Pressure on NASA's budget has come not only from the White House, but also from the Congress. In recent years there has been an increasing tendency for the Congress to add ''earmarks''—congressional additions to the NASA budget request that reflect targeted Members' interests. These earmarks come out of already-appropriated funds, reducing the amounts available for the original tasks.

Have we learned nothing from the Shuttle accident and the CAIB report findings? I am afraid not, since this bill does not provide the level of funding for NASA and its programs requested by the President, yet continues the disturbing trend of earmarking NASA's budget in ways that have nothing to do with fulfilling its mission and purpose. We must do better. As Admiral Gehman testified during one of the Senate Commerce Committee's hearings this year, when I asked him about the effects of the $167 million that was earmarked in last year's appropriations bill (FY 2003), he said ''$100 million will buy a lot of safety engineers.'' Unfortunately, last year's earmarks did not allow for NASA to buy those needed safety engineers.

I am not alone in my concern over the earmarks envisioned in this bill. The Administration's Statement of Administrative Policy goes so far as to call out an earmark for an entity in Hampton, VA, to prepare a research budget as ''one particularly troublesome earmark,'' stating that ''[b]udget development is clearly the purview of the executive branch and the Congress and the proposed effort is redundant and unnecessary.''

I think that it is important to know how we are spending the taxpayers' hard earned money, and have included a list of these earmarks at the end of my statement.

I would like to take a few moments to discuss the International Space Station (ISS). The bill provides $200 million less than the President's request at a time when a number of serious safety concerns have been raised about the Space Station.

For example, William F. Readdy, the NASA Associate Administrator at the Office of Space Flight, testified before the Commerce Committee that the Space Station onboard environmental monitoring system which, ''provides very high accuracy information on atmospheric composition and presence of trace elements . . . is not operating at full capacity.'' He also testified that the crew health countermeasures, which include an onboard treadmill and associated resistive exercise devices, were ''operating at various degrees of reduced capacity and needed to be repaired, upgraded or replaced.''

Recent articles in the Washington Post paint an even more disturbing picture. An October 23, 2003, article describes:

> The problems with monitoring environmental conditions aboard the space station have festered for more than a year, some NASA medical officials said. Space station astronauts have shown such symptoms as headaches, dizziness and ''an inability to think clearly,'' according to a medical officer who asked not to be named. The onboard sensors designed to provide real-time analysis of the air, water and radiation levels have been broken for months, which has made it impossible to determine at any given time whether there is a buildup of trace amounts of dangerous chemical compounds that could sicken astronauts, or worse.

A November 9, 2003, Washington Post article reports that:

> A recent NASA study found that the risk of fire aboard the station has grown because the crew is stowing large quantities of supplies, equipment and waste in front of or near 14 portals that would be crucial for detecting and extinguishing a fire in any of the station's various compartments. There is

also concern that a portion of the station's water stores supplied by the Russians may have high levels of carbon tetrachloride, a toxic contaminant.

This article further stated that:

As far back as March, internal studies warned of a host of dangers for six separate systems, including the thermal controls that cool the station's computers and interiors, that would likely grow out of trying to run the station with limited supplies and a caretaker crew of two instead of the normal complement of three.

Before the recent launch of Expedition 8, the Chief of NASA's Habitability and Environmental Factors Office and NASA's Chief of Space Medicine signed a dissent to the ''flight readiness certificate.'' The dissent declared that ''the continued degradation in the environmental monitoring system, exercise countermeasures system, and the health maintenance system, coupled with a planned increment duration of greater than 6 months and extremely limited resupply, all combine to increase the risk to the crew to the point where initiation of [the mission] is not recommended.

These are very serious issues that cannot be ignored, yet here we are, about to approve more than $81 million for unrequested earmarks while underfunding more pressing needs. How will these cuts to the President's budget request affect the safety of the space station? Are we really willing to take any risks?

Furthermore, how do we explain to the public that we could not find the money to fully fund the International Space Station, but were able to earmark $81.6 million worth of pork barrel funding in NASA's Science, Aeronautics and Exploration Account? Again, this is the very type of earmarking that the CAIB report identified as serious cause for concern.

That this practice continues in the face of legitimate safety concerns is simply unacceptable given the tragedies experienced just this year. When one considers the importance of ensuring the safety of the astronauts aboard the Space Station, don't you have to question the funding priority for projects such as the ultra-long balloon program at New Mexico State University, and the Classroom of the Future at Wheeling Jesuit University in West Virginia? These and other projects are the types of earmarks discussed by the CAIB.

The Statement of Administration Policy opposes this $200 million reduction, stating that: ''After diligently rebuilding reserves to place the Station on sound financial ground, this reduction would deplete reserves deemed critical by independent cost estimates and limit the program's ability to address risks in FY 2004, including impacts from the Columbia accident.'' In addition, I have been informed that this reduction would place at risk actions that NASA is taking to address the Independent Management and Cost Evaluation (IMCE) Task Force recommendations to ensure a ''credible'' ISS Program.

This bill would also reduce funding for other NASA programs. For example, it would reduce funding for the Global Climate Change Research Initiative by $11 million, a decrease of 47 percent. This reduction would significantly impact the development of the Advanced Polarimeter Sensor, which is designed to measure methane, tropospheric ozone, aerosols and black carbon in the atmosphere. The proposed reduction would delay the purchase of ''long-lead'' item purchases, which could potentially delay the launch date of the satellite from 2007 to 2008.

The bill also would reduce funding for the Jupiter Icy Moons Orbiter (JIMO) by $20 million. This reduction would disrupt and delay the formulation of the JIMO and its associated space nuclear power and propulsion technologies. It also would also reduce funding for the preparation of solicitations for the science community and science investigations. In addition, it would reduce funding for spacecraft studies by three competing industry teams, which would result in delayed, less efficient, and disrupted spacecraft conceptual design work. Most importantly, funding for the Department of Energy reactor studies and technology recapture activities would be reduced. The reactor is the ''long-lead'' component of JIMO, and any delay to the reactor could eventually delay the launch of the vehicle.

Finally, the bill would reduce funding for NASA's Earth Science Applications by $15 million a 20 percent decrease. This decrease would suspend or terminate projects in over 12 states that support the integration of Earth observations into decision support systems. The reduction would also suspend NASA's interagency commitments to establish best-practice solutions for the integration of Earth science research results into products and services for food and fiber production, coastal management, energy management, aviation safety, disaster management, and air quality forecasting.

It is important to note for all of these projects that further delays usually equate to greater cost.

I think it is important to comment on the fact that the administration has not provided any cost estimates for the space shuttle's return to flight, even though NASA has issued two versions of its Return To Flight plan. It is difficult to expect an appropriations bill to provide sufficient resources without the relevant information from NASA regarding the cost of these Shuttle operations, and I continue to request the administration provide this critical information to the Congress.

The CAIB has listed 15 recommendations that must be implemented before the Space Shuttle can return to flight. These recommendations vary in technical complexity, and include modifying the Memorandum of Agreement with the National Imagery and Mapping Agency to ensure that images are taken of each Shuttle while on orbit, and developing a comprehensive inspection plan using non-destructive inspection technology to determine the structural integrity of all Reinforced Carbon-Carbon system components. The CAIB also recommends that NASA prepare a detailed plan for establishing an independent Technical Engineering Authority, independent safety program, and reorganized Space Shuttle Integration Office. Some of these recommendations will potentially be expensive to implement, and the Congress needs to have an estimate of their cost soon. We cannot wait until the FY 2005 budget submission to find out how much Return To Flight activities will cost if the Shuttle is expected to fly again next fall.

I am also concerned about the Orbital Space Plane program, the development of which is estimated to cost the taxpayers upwards of $15 billion. This amount is already close to the original estimated development costs of $17.4 billion for the International Space Station. It is amazing that the escape vehicle for the station is about to cost as much as the Station was originally expected to cost.

We must ensure due diligence is taken to protect this public investment. NASA has limited the competition to two companies, yet it has not provided a sufficient explanation to the authorizing committees of jurisdiction as to the merits of such a decision. I am not convinced this will generate either the cost savings or the innovation necessary to make this a successful program.

Perhaps the more fundamental question is whether the OSP is the right approach in the first place. As the rush begins to develop this vehicle, many Members in both Houses are not sure how or if this project fits within the overall plans for the future of NASA. I share these concerns.

We do not want to make the same mistakes that we made on the ISS. Those mistakes cost the American taxpayers dearly as the development costs of the ISS sky-rocketed by more than 50 percent. Even today, we still do not know the final costs of the Station, because of the delay caused by the grounding of the Space Shuttle.

I believe it wise to wait for the results of the on-going inter-agency review of the nation's space program being undertaken by the administration before we dole out $15 billion that may be inconsistent with the future goals of the space program.

We need to make the safety of the astronauts on the space station a top priority. We cannot risk placing the earmarks for parochial interests above the critical need to fund legitimate safety concerns.

Mr. BOND. Mr. President, we are awaiting one more Senator who has an amendment to be offered. We are getting to the point where we hope we can go to a voice vote on final passage as soon as possible to expedite the work of

the committee. I have asked our cloakroom to check to see if the Senator is going to be joining us to offer his amendment.

Mr. REID. Mr. President, the managers have worked this down to one amendment being left. There was an agreement this morning, and Senator MCCAIN is willing to take a very short time agreement. I think it is 20 minutes evenly divided. This bill will be finished before the normal recess.

Ms. MIKULSKI. Mr. President, if I might say to the wonderful distinguished whip and my colleague from Missouri, at 2:30 the Senator from Maryland, along with the distinguished Senator from Utah, Mr. HATCH, are receiving a national award. It will occur in Statuary Hall.

It is really important, if the Senator from Arizona could come next, we could finish this bill. It will be very awkward to try to do the bill at 2:30. I will be here. I will give up the reception of this award. It is really awkward when we are ready to go. I respect the impeccable credentials of the Senator from Arizona on national security. We know what he wants to offer. We could deal with this now and have him present his arguments and our rebuttal, and perhaps do this before the luncheon recess. We would like to get this done before the Senate recesses for the year.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to speak for about 3 minutes.

First, I would like to express my appreciation to Senator BOND and Senator MIKULSKI for their work on this legislation and particularly for their commitment to the National Aeronautics and Space Administration.

This is such an important part of what we are as a people. We are a nation of explorers. This represents a commitment by the American people to explore our solar system and, as far as possible, the universe as we know it.

We have had a tough year. With the shuttle disaster and seven astronauts lost, a tremendous effort has been ongoing to deal with the problem so it will not happen again as part of the return to space program. It has cost us a good bit of money.

It is important to note NASA Administrator Sean O'Keefe is doing a terrific job. He has served as former Secretary of the Navy, former Comptroller of the Department of Defense, chaired departments at Johns Hopkins, Syracuse, Penn State, and has dealt with governmental management. He is doing a good job. That was confirmed just 2 days ago when NASA was rated the best place to work in the Federal Government. In fact, I was particularly proud that Marshall Space Flight Center in Huntsville, AL, the part of NASA where the Saturn 5 was originally set up by Werner Von Braun, is rated the best of the best in the entire U.S. Government. A lot of good things are happening despite the difficulties.

One thing, though, that our leaders were not able to do: Under the pressure that was upon them, they believed it necessary to reduce the International Space Station funding by $200 million. I know there is a lot of pressure. I understand the difficulties they face. The House has not done that.

I urge our colleagues as they go to conference—and I intend to support this bill—to see if we can't get back that $200 million. We don't know all of the challenges they will face, but we know we really have to do a lot of extra work on the return to space. It has drained a lot of our money. If we could keep that $200 million in and keep this space station going, I think it would maintain our progressive vision for space and continue our commitment to explore our solar system. I think it is very important.

I urge my colleagues to do all they can to see if that can be worked out. I thank them for their leadership.

I yield the floor.

Mr. BOND. Mr. President, I thank my colleague from Alabama for his comments on space exploration and the space station.

He noted the delays in the space station operations because of the unavailability of the space shuttle. That is one of the reasons we put some of those funds in other priority programs. We are trying to get back into space so we can get the space shuttle. We very much appreciate that.

VETERANS' CEMETERIES

Mr. GRAHAM of Florida. Mr. President, would the Senator from Missouri be willing to engage me in a colloquy?

Mr. BOND. I would be pleased to engage in a colloquy with my friend from Florida.

Mr. GRAHAM of Florida. I have come to the floor today to speak about an issue of great importance; the need to construct new national veterans cemeteries.

National cemeteries are reaching capacity throughout the United States as veterans, particularly those from World War II and the Korean War, die in increasing numbers. By the end of 2004, only 64 of the 124 veterans national cemeteries will be available for both casketed and cremated remains.

Recognizing the need to establish new cemeteries, Congress recently passed the National Cemetery Expansion Act of 2003 (H.R. 1516). This bill directs the Department of Veterans Affairs (VA) to construct a new national veterans cemetery in the following six cities: Jacksonville, FL; Sarasota, FL; Birmingham, AL; Bakersfield, CA; Philadelphia, PA; and Columbia, SC. These cities were identified by VA as being the areas in the greatest need of a new cemetery.

As cemetery service capabilities decrease, veterans in areas near cemeteries that are at capacity will lose access to burial options within a reasonable distance of their homes. In order to ensure that burial options are provided for veterans and their family members, we must develop new cemeteries and expand existing cemeteries. This process must start as soon as possible because the construction of a new cemetery takes an average of seven years.

I respectfully request that the distinguished chairman of the VA–HUD Subcommittee work to include advance planning funds in conference so we begin constructing these new cemeteries and ensure our veterans have the burial options they deserve.

Mr. BOND. I agree this is an important issue and I will try to address it in conference.

Mr. GRAHAM of Florida. I would like to thank the distinguished chairman for his efforts and I look forward to the final conference report.

Mr. BOND. Mr. President, I express my sincerest appreciation to my colleague, the Senator from Maryland, without whom we could not have gotten them done. We were under very tight time pressures and with very limited resources.

I express my thanks to the chairman, Senator STEVENS, and the ranking member, Senator BYRD, for making enough money available so we can restore the full amount of funding for veterans health care which was a top priority.

This was an extremely difficult year for us. We could not have gotten it done without an extremely able staff who worked, I imagine, more than 100 hours a week and 20 hours several days.

Thanks on the minority side to Paul Carliner, Alexa Sewell, Gabrielle Batkin; and, on my side, Jon Kamarck, Cheh Kim, Allan Cutler, Jennifer Storipan, and Rebecca Benn. We sincerely appreciate their good work.

I ask my colleague for any comments, and then we are ready to go to final passage.

Ms. MIKULSKI. Mr. President, we have fully funded the VA including a $1.5 billion increase over the President's request for VA medical care.

We have provided $28.5 billion for medical care, a 12 percent increase over last year's level. with no deductibles, no co-pays, and no membership fees for veterans. Promises made to our veterans must be promises kept and we have kept our promises to veterans in this bill.

In the area of housing and community development, we continue our commitment to core housing programs, including Community Development Block Grants, HOME, HOPE VI, and Section 8. These programs provide flexible funding for local communities for a range of activities, such as new rental housing, rehabilitation of dilapidated properties, and child care centers.

Last year, CDBG funds created or retained over 100,000 jobs nationwide.

We also keep our commitment to the environment helping local communities protect their citizens' health and their environment.

EPA helps communities by cleaning up Brownfields, improving air quality,

and fixing water and sewer systems. We provide $8.2 billion to the EPA, $105 million above last year, and $500 million above the President's budget request.

In water and sewer needs, communities all across the country are faced with aging water and sewer systems. The costs of fixing and maintaining these aging systems continue to increase. That is why Senator BOND and I worked together to restore the administration's $500 million cut to the Clean Water State Revolving Loan Fund.

We have also fully funded environmental cops on the beat so that we catch polluters who threaten public health and the environment.

We have provided a record amount for Americorps, $340 million, so that Americorps can enroll more volunteers to serve in our communities.

In NASA, we provided the full amount for the Space Shuttle—$3.9 billion. Senator BOND and I have always made the Space Shuttle safety a priority.

The bill also funded all major programs in space science, earth science, and aeronautics.

In order to keep our manufacturing jobs here, we increase our investment in the National Science Foundation. We win the Nobel Prizes, and they win the markets. That is why we provide NSF with the largest budget in its history.

We have increased funding for education to attract and train more scientists, engineers and teachers of science.

Again, I joined this Subcommittee to meet the needs of our veterans, empower communities, and create new jobs. This bill has accomplished all three goals.

I support this bill, and I urge my colleagues to support it.

Mr. President, I thank Senator BOND for the wonderful job he has done on this bill on the part of representing the Democratic side. I thank him for all the courtesies and collegiality. Most of all, I thank him for really not playing politics with veterans health care, as I did not. As we approached this bill, when it came to looking out for veterans health care, we weren't the Republican Party; we weren't the Democratic Party; we were the red, white, and blue party. Therefore, we could raise the funding for veterans medical care by 12 percent with no deductibles, with no new deductibles, no new copayments, and no membership fees. That was due in large part to our mutual advocacy and the wonderful cooperation of Senator STEVENS and Senator BYRD.

I joined this subcommittee for two reasons: To meet the day-to-day needs of my constituents—our veterans—housing, the environment; and the long-range investments needed for our country in science and technology. I believe we have accomplished both.

I also thank the staff who enabled us to do this: On my own side, Paul Carliner, Gabrielle Batkin, Alexa Sewell, and Jennifer Storipan; and the staff of the distinguished Senator from Missouri: Jon Karmarck, Cheh Kim, Allan Cutler, and Rebecca Benn.

I also thank the floor staff of both the majority and the minority who helped us expedite the bill. No kinder words could be said by me than to express my gratitude to Senator HARRY REID, the whip on our side, who really also helped bring this bill to closure. This is why we come to the Senate, to try to use the taxpayers' money in a wise way. It keeps promises made to our U.S. veterans, but adds value to our country, whether through empowering neighborhoods, protecting the environment, or investing in science and technology so we not only win the Nobel Prizes but we win the markets.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Missouri.

Mr. BOND. We are ready for final passage.

The amendment (No. 2150), as amended, was agreed to.

The PRESIDING OFFICER. The question is on engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 2861), as amended, was passed, as follows:

H.R. 2861

Resolved, That the bill from the House of Representatives (H.R. 2861) entitled ''An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veteran Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 540 et seq.) and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $29,845,127,000, to remain available until expended: Provided, That not to exceed $17,056,000 of the amount appropriated under this heading shall be reimbursed to ''General operating expenses'' and ''Medical care'' for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the ''Compensation and pensions'' appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to ''Medical facilities revolving fund'' to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $2,529,734,000, to remain available until expended: Provided, That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under section 3104(a) of title 38, United States Code, other than under subsection (a)(1), (2), (5), and (11) of that section, shall be charged to this account.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by 38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487, $29,017,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by 38 U.S.C. chapter 37, 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, as amended: Provided further, That during fiscal year 2004, within the resources available, not to exceed $300,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $154,850,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, 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, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,400.

In addition, for administrative expenses necessary to carry out the direct loan program, $70,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $52,000, as authorized by 38 U.S.C. chapter 31, 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, as amended: Provided further, That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,938,000: Provided further, That the loan level shall be considered an estimate and not a limitation.

In addition, for administrative expenses necessary to carry out the direct loan program, $300,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, $571,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by 38 U.S.C. chapter 37, subchapter VI, not to exceed $750,000 of the amounts appropriated by this Act for ''General operating expenses'' and ''Medical care'' may be expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the department; and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in the department; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the department; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; aid to State homes as authorized by 38 U.S.C. 1741; administrative and legal expenses of the department for collecting and recovering amounts owed the department as authorized under 38 U.S.C. chapter 17, and the Federal Medical Care Recovery Act, 42 U.S.C. 2651 et seq., $25,488,080,000, plus reimbursements: Provided, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for treatment for veterans who are service-connected disabled, lower income, or have special needs: Provided further, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: Provided further, That of the funds made available under this heading, $1,100,000,000 is for equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 2004, and shall remain available until September 30, 2005: Provided further, That of the funds made available under this heading, not to exceed $1,100,000,000 shall be available until September 30, 2005: Provided further, That of the funds made available under this heading, the Secretary may transfer up to $400,000,000 to ''Construction, major projects'' for purposes of implementing CARES subject to a determination by the Secretary that such funds will improve access and quality of veteran's health care needs: Provided further, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may provide prescription drugs to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: Provided further, That the Secretary of Veterans Affairs shall conduct by contract a program of recovery audits for the fee basis and other medical services contracts with respect to payments for hospital care; and, notwithstanding 31 U.S.C. 3302(b), amounts collected, by setoff or otherwise, as the result of such audits shall be available, without fiscal year limitation, for the purposes for which funds are appropriated under this heading and the purposes of paying a contractor a percent of the amount collected as a result of an audit carried out by the contractor: Provided further, That all amounts so collected under the preceding proviso with respect to a designated health care region (as that term is defined in 38 U.S.C. 1729A(d)(2)) shall be allocated, net of payments to the contractor, to that region: Provided further, That such sums as may be deposited to the Medical Care Collections Fund pursuant to 38 U.S.C. 1729A may be transferred to this account, to remain available until expended for the purposes of this account: Provided further, That Medical Care Collections Funds may be used for construction, alteration and improvement of any parking facility set forth in 38 U.S.C. 8109: Provided further, That of the unobligated balances remaining from prior year recoveries under this heading, $270,000,000 is rescinded.

For an additional amount for ''Medical care'', $1,300,000,000.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by 38 U.S.C. chapter 73, to remain available until September 30, 2005, $413,000,000 plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities, $79,146,000: Provided further, That of the funds made available under this heading, not to exceed, $4,000,000 shall be available until September 30, 2005, plus reimbursements: Provided further, That technical and consulting services offered by the Facilities Management Field Support Service, including project management and real property administration (including leases, site acquisition and disposal activities directly supporting projects), shall be provided to Department of Veterans Affairs components only on a reimbursable basis, and such amounts will remain available until September 30, 2004.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of department-wide capital planning, management and policy activities, uniforms or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, $1,283,272,000: Provided, That expenses for services and assistance authorized under 38 U.S.C. 3104(a)(1), (2), (5), and (11) that the Secretary determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: Provided further, That the Veterans Benefits Administration shall be funded at not less than $1,004,704,000: Provided further, That of the funds made available under this heading, not to exceed $64,000,000 shall be available for obligation until September 30, 2005: Provided further, That from the funds made available under this heading, the Veterans Benefits Administration may purchase up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; and hire of passenger motor vehicles, $144,203,000: Provided, That of the funds made available under this heading, not to exceed $7,200,000 shall be available until September 30, 2005.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $62,250,000, to remain available until September 30, 2005.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in 38 U.S.C. 8104(a)(3)(A) or where funds for a project were made available in a previous major project appropriation, $272,690,000, to remain available until expended, of which $183,000,000 shall be for Capital Asset Realignment for Enhanced Services (CARES) activities; and of which $10,000,000 shall be to make reimbursements as provided in 41 U.S.C. 612 for claims paid for contract disputes: Provided, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, such as portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund and CARES funds, including needs assessments which may or may not lead to capital investments, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 2004, for each approved project (except those for CARES activities referenced above) shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2004; and (2) by the awarding of a construction contract by September 30, 2005: Provided further, That the Secretary of Veterans Affairs shall promptly report in writing to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above: Provided further, That no funds from any other account except the ''Parking revolving fund'', may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until 1 year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services,

maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in 38 U.S.C. 8104(a)(3)(A), $252,144,000, to remain available until expended, along with unobligated balances of previous ''Construction, minor projects'' appropriations which are hereby made available for any project where the estimated cost is equal to or less than the amount set forth in 38 U.S.C. 8104(a)(3)(A), of which $42,000,000 shall be for Capital Asset Realignment for Enhanced Services (CARES) activities: Provided, That from amounts appropriated under this heading, additional amounts may be used for CARES activities upon notification of and approval by the Committees on Appropriations: Provided further, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by 38 U.S.C. 8131–8137, $102,100,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by 38 U.S.C. 2408, $32,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for fiscal year 2004 for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for fiscal year 2004 for salaries and expenses shall be available for services authorized by 5 U.S.C. 3109.

SEC. 103. No appropriations in this Act for the Department of Veterans Affairs (except the appropriations for ''Construction, major projects'', ''Construction, minor projects'', and the ''Parking revolving fund'') shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under 5 U.S.C. 7901–7904 or 42 U.S.C. 5141–5204), unless reimbursement of cost is made to the ''Medical care'' account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 2004 for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2003.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 2004 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from ''Compensation and pensions''.

SEC. 107. Notwithstanding any other provision of law, during fiscal year 2004, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the ''General operating expenses'' account for the cost of administration of the insurance programs financed through those accounts: Provided, That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 2004 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: Provided further, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: Provided further, That the Secretary shall determine the cost of administration for fiscal year 2004 which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 108. Notwithstanding any other provision of law, the Department of Veterans Affairs shall continue the Franchise Fund pilot program authorized to be established by section 403 of Public Law 103–356 until October 1, 2004: Provided, That the Franchise Fund, established by title I of Public Law 104–204 to finance the operations of the Franchise Fund pilot program, shall continue until October 1, 2004.

SEC. 109. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

SEC. 110. Funds available in any Department of Veterans Affairs appropriation for fiscal year 2004 or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management and the Office of Employment Discrimination Complaint Adjudication for all services provided at rates which will recover actual costs but not exceed $29,318,000 for the Office of Resolution Management and $3,059,000 for the Office of Employment and Discrimination Complaint Adjudication: Provided, That payments may be made in advance for services to be furnished based on estimated costs: Provided further, That amounts received shall be credited to ''General operating expenses'' for use by the office that provided the service.

SEC. 111. No appropriations in this Act for the Department of Veterans Affairs shall be available to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits a report which the Committees on Appropriations of the Congress approve within 30 days following the date on which the report is received.

SEC. 112. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or treatment of any person by reason of eligibility under section 1710(a)(3) of title 38, United States Code, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require—

(1) current, accurate third-party reimbursement information for purposes of section 1729 of such title; and

(2) annual income information for purposes of section 1722 of such title.

SEC. 113. None of the funds in this Act may be used to implement sections 2 and 5 of Public Law 107–287.

SEC. 114. Receipts that would otherwise be credited to the Veterans Extended Care Revolving Fund, the Medical Facilities Revolving Fund, the Special Therapeutic and Rehabilitation Fund, the Nursing Home Revolving Fund, the Veterans Health Services Improvement Fund, and the Parking Revolving Fund shall be deposited into the Medical Care Collections Fund, and shall be transferred to the Medical Care account, to remain available until expended, to carry out the purposes of the Medical Care account.

SEC. 115. Notwithstanding any other provision of law, at the discretion of the Secretary of Veterans Affairs, proceeds or revenues derived from enhanced-use leasing activities (including disposal) that are deposited into the Medical Care Collections Fund may be transferred and merged with major construction and minor construction accounts and be used for construction (including site acquisition and disposition), alterations and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in the Major and Minor Construction appropriations.

SEC. 116. Notwithstanding paragraph (2) of section 8163(c) of title 38, United States Code, the Secretary of Veterans Affairs may enter into an enhanced-use lease with the Medical University Hospital Authority, a public authority of the State of South Carolina, for approximately 0.48 acres of underutilized property at the Charleston Department of Veterans Affairs Medical Center, Charleston, South Carolina, at any time after 30 days after the date of the submittal of the notice required by paragraph (1) of that section with respect to such property. The Secretary is not required to submit a report on the lease as otherwise required by paragraph (4) of that section.

SEC. 117. Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall make the North Chicago VA Medical Center available to the Navy to the maximum extent feasible. The Secretary shall report to the Senate Appropriations Committee by June 30, 2004, regarding the progress in modifying North Chicago VA Medical Center's surgical suite and emergency and urgent care centers for use by veterans and Department of Defense beneficiaries. Further, the Secretary shall consider having the new joint VA/Navy ambulatory care center to serve both veterans and Department of Defense beneficiaries sited on or adjacent to the North Chicago VA Medical Center and shall consult with the Secretary of the Navy to select the site for the center. The Secretary of Veterans Affairs shall report to the Senate Appropriations Committee on the site selection by June 30, 2004.

SEC. 118. (a) TREATMENT OF PIONEER HOMES IN ALASKA AS STATE HOME FOR VETERANS.—The Secretary of Veterans Affairs may—

(1) treat the Pioneer Homes in the State of Alaska collectively as a single State home for veterans for purposes of section 1741 of title 38, United States Code; and

(2) make per diem payments to the State of Alaska for care provided to veterans in the Pioneer Homes in accordance with the provisions of that section.

(b) TREATMENT NOTWITHSTANDING NON-VETERAN RESIDENCY.—The Secretary shall treat the Pioneer Homes as a State home under subsection (a) notwithstanding the residency of non-veterans in one or more of the Pioneer Homes.

(c) PIONEER HOMES DEFINED.—In this section, the term ''Pioneer Homes'' means the six regional homes in the State of Alaska known as Pioneer Homes, which are located in the following:

(1) Anchorage, Alaska.
(2) Fairbanks, Alaska.
(3) Juneau, Alaska.
(4) Ketchikan, Alaska.
(5) Palmer, Alaska.
(6) Sitka, Alaska.

SEC. 119. (a) FINDINGS ON ACCESS TO PRIMARY HEALTH CARE OF VETERANS IN RURAL AREAS.—The Senate makes the following findings:

(1) The Secretary of Veterans Affairs has appointed a commission, called the Capital Asset Realignment for Enhanced Services (CARES) Commission, and directed it to make specific recommendations regarding the realignment and allocation of capital assets necessary to meet the demand for veterans health care services over the next 20 years.

(2) The Department of Veterans Affairs accessibility standard for primary health care provides that at least 70 percent of the veterans enrolled in each of the regional ''markets'' of the Department should live within a specified driving time of a Department primary care facility. That driving time is 30 minutes for veterans living in urban and rural areas and 60 minutes for veterans living in highly rural areas.

(3) The Draft National CARES Plan issued by the Under Secretary for Health would place veterans in 18 rural and highly rural regional markets outside the Department accessibility standard for primary health care until at least fiscal year 2022, which means that thousands of veterans will have to continuing traveling up to 3–4 hours each way to visit a Department primary care facility.

(4) The 18 rural and highly rural markets that will remain outside the Department accessibility standard for primary health care comprise all or parts of Arkansas, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Virginia, Washington, and West Virginia.

(5) Health care facilities for veterans are disproportionately needed in rural and highly rural areas because the residents of such areas are generally older, poorer, and sicker than their urban counterparts.

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

(1) the CARES Commission should give as much attention to solving the special needs of veterans who live in rural areas as it does to providing for the health care needs of veterans living in more highly populated areas;

(2) the CARES Commission should reject the portions of the Draft National CARES Plan that would prevent any regional market of the Department from complying with the Department accessibility standard for primary health care, which provides that at least 70 percent of the veterans residing in each market be within specified driving times of a Department primary care facility; and

(3) the CARES Commission should recommend to the Secretary the investments and initiatives that are necessary to achieve the Department accessibility standard for primary health care in each of the rural and highly rural health care markets of the Department.

SEC. 120. Not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into an agreement with the Institute of Medicine of the National Academy of Sciences under which agreement the Institute of Medicine shall develop and evaluate epidemiological studies on Vietnam veterans in accordance with the recommendations of the 2003 National Academy of Sciences report entitled ''Characterizing Exposure of Veterans to Agent Orange and Other Herbicides Used in Vietnam: Interim Findings and Recommendations''.

SEC. 121. No funds appropriated or otherwise made available for the Department of Veterans Affairs by this Act or any other Act may be obligated or expended to implement the policy contained in the memorandum of the Department of Veterans Affairs dated July 18, 2002, from the Deputy Under Secretary for Health for Operations and Management with the subject ''Status of VHA Enrollment and Associated Issues'' or any other policy prohibiting the Directors of the Veterans Integrated Service Networks (VISNs) from conducting outreach or marketing to enroll new veterans within their Networks.

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For activities and assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.) (''the Act'' herein), not otherwise provided for, $18,433,606,000, and amounts that are recaptured in this account, to remain available until expended: Provided, That of the amounts made available under this heading, $14,233,606,379 and the aforementioned recaptures shall be available on October 1, 2003 and $4,200,000,000 shall be available on October 1, 2004: Provided further, That amounts made available under this heading are provided as follows:

(1) $16,202,616,000 for expiring or terminating section 8 project-based subsidy contracts (including section 8 moderate rehabilitation contracts), for amendments to section 8 project-based subsidy contracts, for contracts entered into pursuant to section 441 of the McKinney-Vento Homeless Assistance Act, for the 1-year renewal of section 8 contracts for units in projects that are subject to approved plans of action under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and for renewals of expiring section 8 tenant-based annual contributions contracts (including amendments and renewals of enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act (42 U.S.C. 1437f(t))): Provided, That notwithstanding any other provision of law, the Secretary shall renew expiring section 8 tenant-based annual contributions contracts for each public housing agency (including for agencies participating in the Moving to Work demonstration, unit months representing section 8 tenant-based assistance funds committed by the public housing agency for specific purposes, other than reserves, that are authorized pursuant to any agreement and conditions entered into under such demonstration, and utilized in compliance with any applicable program obligation deadlines) based on the total number of unit months which were under lease as reported on the most recent end-of-year financial statement submitted by the public housing agency to the Department, adjusted by such additional information submitted by the public housing agency to the Secretary which the Secretary determines to be timely and reliable regarding the total number of unit months under lease at the time of renewal of the annual contributions contract, and by applying an inflation factor based on local or regional factors to the actual per unit cost as reported: Provided further, That funds may be made available in this paragraph to support a total number of unit months under lease that exceeds a public housing agency's authorized level of units under lease to the extent that the use of these funds is part of a strategy for a public housing agency to attain its authorized level of units under contract: Provided further, That when a public housing agency is over its authorized contract level, that public housing agency may not issue another voucher (including turnover vouchers) until that public housing agency is at or below its authorized contract level for vouchers.

(2) $461,329,000 for a central fund to be allocated by the Secretary for the support of section 8 subsidy contracts or amendments to such contracts, and for such other purposes as are set forth in this paragraph: Provided, That subject to the following proviso, the Secretary shall use amounts in such fund, as necessary, for contract amendments to maintain the total number of unit months under lease (up to the authorized level) including turnover and reissuance of authorized vouchers, and for contract amendments resulting from a significant increase in per-unit costs, or otherwise provide funds so that public housing agencies may lease units up to their authorized unit level: Provided further, That the Secretary may use up to $36,000,000 in such funds for incremental vouchers under section 8 of the Act to be used for non-elderly disabled families affected by the designation of a public housing development under section 7 of the Act, the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 13611), or the restriction of occupancy to elderly families in accordance with section 658 of such Act (42 U.S.C. 13618): Provided further, That the Secretary may only allocate the incremental vouchers under the previous proviso upon a determination that there are adequate funds under this heading to fund all voucher needs in this fiscal year: Provided further, That if a public housing agency, at any point in time during their fiscal year, has obligated the amounts made available to such agency pursuant to paragraph (1) under this heading for the renewal of expiring section 8 tenant-based annual contributions contracts, and if such agency has expended 50 percent of the amounts available to such agency in its annual contributions contract reserve account, the Secretary shall make available such amounts as are necessary from amounts available from such central fund to fund amendments under the preceding proviso within 30 days of a request from such agency: Provided further, That none of the funds made available in this paragraph may be used to support a total number of unit months under lease which exceeds a public housing agency's authorized level of units under contract: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations of the House and the Senate on the obligation of funds provided in this paragraph;

(3) $252,203,000 for section 8 rental assistance for relocation and replacement of housing units that are demolished or disposed of pursuant to the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134), conversion of section 23 projects to assistance under section 8, the family unification program under section 8(x) of the Act, relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency, enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act (42 U.S.C.1437f(t)), and tenant protection assistance, including replacement and relocation assistance;

(4) $72,000,000 for family self-sufficiency coordinators under section 23 of the Act;

(5) not to exceed $1,339,448,400 for administrative and other expenses of public housing agencies in administering the section 8 tenant-based rental assistance program: Provided, That the fee otherwise authorized under section 8(q) of the Act shall be determined in accordance with section 8(q), as in effect immediately before the enactment of the Quality Housing and Work Responsibility Act of 1998;

(6) $100,000,000 for contract administrators for section 8 project-based assistance;

(7) not less than $3,010,000 shall be transferred to the Working Capital Fund for the development of and modifications to information technology systems which serve activities under ''Public and Indian Housing''; and

(8) up to $3,000,000 for an outside audit by a major accounting firm to assess the current status of all funds within this account, including the amounts of obligated and unobligated funds for all programs funded under this heading for fiscal year 2004 as well as the availability of funds currently appropriated under this heading for fiscal years 2005 and thereafter.

The Secretary may transfer up to 15 percent of funds provided under paragraphs (1), (2), (3) or

(5), herein to paragraphs (1), (2), (3) or (5), if the Secretary determines that such action is necessary because the funding provided under one such paragraph otherwise would be depleted and as a result, the maximum utilization of section 8 tenant-based assistance with the funds appropriated for this purpose by this Act would not be feasible: Provided, That prior to undertaking the transfer of funds in excess of 10 percent from any paragraph pursuant to the previous proviso, the Secretary shall notify the Chairman and Ranking Member of the Subcommittees on Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate and shall not transfer any such funds until 30 days after such notification: Provided further, That, hereafter, the Secretary shall require public housing agencies to submit accounting data for funds disbursed under this heading in this Act and prior Acts by source and purpose of such funds: Provided further, That incremental vouchers previously made available under this heading for non-elderly disabled families shall, to the extent practicable, continue to be provided to non-elderly disabled families upon turnover: Provided further, That $1,372,000,000 is rescinded from unobligated balances remaining from funds appropriated to the Department of Housing and Urban Development under this heading or the heading ''Annual contributions for assisted housing'' or any other heading for fiscal year 2003 and prior years, to be effected by the Secretary no later than September 30, 2004: Provided further, That any such balances governed by reallocation provisions under the statute authorizing the program for which the funds were originally appropriated shall be available for the rescission: Provided further, That any obligated balances of contract authority from fiscal year 1974 and prior that have been terminated shall be cancelled.

PUBLIC HOUSING CAPITAL FUND

(INCLUDING TRANSFER OF FUNDS)

For the Public Housing Capital Fund Program to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,641,000,000 (the ''Act''), to remain available until September 30, 2007: Provided, That of the total amount provided under this heading, in addition to amounts otherwise allocated under this heading, $400,000,000 shall be allocated for such capital and management activities only among public housing agencies that have obligated all assistance for the agency for fiscal years 2001 and 2002 made available under this same heading in accordance with the requirements under paragraphs (1) and (2) of section 9(j) of such Act: Provided further, That notwithstanding any other provision of law or regulation, during fiscal year 2004, the Secretary may not delegate to any Department official other than the Deputy Secretary any authority under paragraph (2) of such section 9(j) regarding the extension of the time periods under such section for obligation of amounts made available for fiscal years 1998, 1999, 2000, 2001, 2002, 2003, or 2004: Provided further, That with respect to any amounts made available under the Public Housing Capital Fund for fiscal years 1999, 2000, 2001, 2002, 2003, or 2004 that remain unobligated in violation of paragraph (1) of such section 9(j) or unexpended in violation of paragraph (5)(A) of such section 9(j), the Secretary shall recapture any such amounts and reallocate such amounts among public housing agencies determined under 6(j) of the Act to be high-performing: Provided further, That for purposes of this heading, the term ''obligate'' means, with respect to amounts, that the amounts are subject to a binding agreement that will result in outlays immediately or in the future: Provided further, That of the total amount provided under this heading, up to $50,000,000 shall be for carrying out activities under section 9(h) of such Act, of which up to $13,000,000 shall be for the provision of remediation services to public housing agencies identified as ''troubled'' under the Section 8 Management Assessment Program and for surveys used to calculate local Fair Market Rents and assess housing conditions in connection with rental assistance under section 8 of the Act: Provided further, That of the total amount provided under this heading, up to $500,000 shall be for lease adjustments to section 23 projects, and no less than $10,610,000 shall be transferred to the Working Capital Fund for the development of and modifications to information technology systems which serve programs or activities under ''Public and Indian housing'': Provided further, That no funds may be used under this heading for the purposes specified in section 9(k) of the United States Housing Act of 1937, as amended: Provided further, That of the total amount provided under this heading, up to $40,000,000 shall be available for the Secretary of Housing and Urban Development to make grants to public housing agencies for emergency capital needs resulting from emergencies and natural disasters in fiscal year 2003: Provided further, That of the total amount provided under this heading, $15,000,000 shall be for Neighborhood Networks grants for activities authorized in section 9(d)(1)(E) of the United States Housing Act of 1937, as amended: Provided further, That notwithstanding any other provision of law, amounts made available in the previous proviso shall be awarded to public housing agencies on a competitive basis as provided in section 102 of the Department of Housing and Urban Development Reform Act of 1989: Provided further, That of the total amount provided under this heading, $55,000,000 shall be for supportive services, service coordinators and congregate services as authorized by section 34 of the Act and the Native American Housing Assistance and Self-Determination Act of 1996: Provided further, That of the total amount provided under this heading, up to $125,000,000 shall be for grants and credit subsidy to support a loan guarantee and loan program for the development of public housing units in mixed income housing developments: Provided further, That the first proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003 is amended by striking ''1998, 1999''.

PUBLIC HOUSING OPERATING FUND

For payments to public housing agencies for the operation and management of public housing, as authorized by section 9(e) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g(e)), $3,576,600,000: Provided, That of the total amount provided under this heading, $10,000,000 shall be for programs, as determined appropriate by the Attorney General, which assist in the investigation, prosecution, and prevention of violent crimes and drug offenses in public and federally-assisted low-income housing, including Indian housing, which shall be administered by the Department of Justice through a reimbursable agreement with the Department of Housing and Urban Development: Provided further, That, in fiscal year 2004 and all fiscal years hereafter, no amounts under this heading in any appropriations Act may be used for payments to public housing agencies for the costs of operation and management of public housing for any year prior to the current year of such Act: Provided further, That no funds may be used under this heading for the purposes specified in section 9(k) of the United States Housing Act of 1937, as amended.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

For grants to public housing agencies for demolition, site revitalization, replacement housing, and tenant-based assistance grants to projects as authorized by section 24 of the United States Housing Act of 1937, as amended (''such Act''), $195,115,000, to remain available until expended: Provided, That the Secretary may recapture funds from grants previously awarded under this heading in fiscal year 1997 and prior fiscal years for use in making grants in fiscal year 2004 as authorized under section 24 of such Act: Provided further, That the Secretary may only recapture grants under the previous proviso where the Secretary determines that a project is less than 90 percent complete and that the project is unlikely to be completed successfully within the next 2 fiscal years: Provided further, That the Secretary shall not recapture funds from any HOPE VI project that has unobligated funds due to litigation or a court ordered consent decree: Provided further, That the Secretary shall establish an alternative housing plan to meet tenant needs where the Secretary is recapturing HOPE VI funds from a public housing agency with a failed HOPE VI project and the Secretary may recapture only the amount of funds which are not necessary to meet the requirements of the alternative housing plan: Provided further, That the Secretary shall report to the Congress by December 15, 2003 on the status of all HOPE VI projects that are unlikely to be completed according to program requirements: Provided further, That the Secretary shall report to the Congress on any decision to recapture funds from a HOPE VI project, including the justification for the decision and the provisions of the alternative housing plan: Provided further, That the Secretary may use up to $3,000,000 of the funds made available under this heading for technical assistance and contract expertise, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the department and of public housing agencies and to residents: Provided further, That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein.

NATIVE AMERICAN HOUSING BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For the Native American Housing Block Grants program, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4111 et seq.), $646,600,000, to remain available until expended, of which $2,200,000 shall be contracted through the Secretary as technical assistance and capacity building to be used by the National American Indian Housing Council in support of the implementation of NAHASDA; of which $4,000,000 shall be to support the inspection of Indian housing units, contract expertise, training, and technical assistance in the training, oversight, and management of Indian housing and tenant-based assistance, including up to $300,000 for related travel; and of which no less than $2,720,000 shall be transferred to the Working Capital Fund for development of and modifications to information technology systems which serve programs or activities under ''Public and Indian housing'': Provided, That of the amount provided under this heading, $2,000,000 shall be made available for the cost of guaranteed notes and other obligations, as authorized by title VI of NAHASDA: Provided further, That such costs, including the costs of modifying such notes and other obligations, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize the total principal amount of any notes and other obligations, any part of which is to be guaranteed, not to exceed $16,658,000: Provided further, That for administrative expenses to carry out the guaranteed loan program, up to $150,000 from amounts in the first proviso, which shall be transferred to and merged with the appropriation for ''Salaries and expenses'', to be used only for the administrative costs of these guarantees.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a), $5,300,000, to remain available until expended: Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $197,243,000.

In addition, for administrative expenses to carry out the guaranteed loan program, up to $250,000 from amounts in the first paragraph, which shall be transferred to and merged with the appropriation for ''Salaries and expenses'', to be used only for the administrative costs of these guarantees.

NATIVE HAWAIIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, as authorized by section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b), $1,035,000, to remain available until expended: Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $39,712,000.

In addition, for administrative expenses to carry out the guaranteed loan program, up to $35,000 from amounts in the first paragraph, which shall be transferred to and merged with the appropriation for ''Salaries and expenses'', to be used only for the administrative costs of these guarantees.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901 et seq.), $291,000,000, to remain available until September 30, 2005: Provided, That the Secretary shall renew all expiring contracts for permanent supportive housing that were funded under section 854(c)(3) of such Act that meet all program requirements before awarding funds for new contracts and activities authorized under this section: Provided further, That the formula funds made available under this heading for fiscal year 2004 shall be awarded to eligible grantees under the same rules and requirements as were in effect for fiscal year 2003: Provided further, That the Secretary may use up to $3,000,000 of the funds under this heading for training, oversight, and technical assistance activities.

RURAL HOUSING AND ECONOMIC DEVELOPMENT

For the Office of Rural Housing and Economic Development in the Department of Housing and Urban Development, $25,000,000 to remain available until expended, which amount shall be awarded by June 1, 2004, to Indian tribes, State housing finance agencies, State community and/or economic development agencies, local rural nonprofits and community development corporations to support innovative housing and economic development activities in rural areas: Provided, That all grants shall be awarded on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989.

COMMUNITY DEVELOPMENT FUND

(INCLUDING TRANSFERS OF FUNDS)

For assistance to units of State and local government, and to other entities, for economic and community development activities, and for other purposes, $4,950,000,000, to remain available until September 30, 2006: Provided, That of the amount provided, $4,545,700,000 is for carrying out the community development block grant program under title I of the Housing and Community Development Act of 1974, as amended (the ''Act'' herein) (42 U.S.C. 5301 et seq.): Provided further, That not to exceed 20 percent of any grant made with funds appropriated under this heading (other than a grant made available in this paragraph to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Act) shall be expended for ''Planning and Management Development'' and ''Administration'', as defined in regulations promulgated by the Department: Provided further, That $72,500,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of such Act; $3,300,000 shall be for a grant to the Housing Assistance Council; $2,600,000 shall be for a grant to the National American Indian Housing Council; $52,500,000 shall be for grants pursuant to section 107 of the Act; no less than $4,900,000 shall be transferred to the Working Capital Fund for the development of and modification to information technology systems which serve programs or activities under ''Community planning and development''; $12,000,000 shall be for grants pursuant to the Self Help Homeownership Opportunity Program; $35,500,000 shall be for capacity building, of which $31,500,000 shall be for Capacity Building for Community Development and Affordable Housing for LISC and the Enterprise Foundation for activities as authorized by section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note), as in effect immediately before June 12, 1997, with not less than $5,000,000 of the funding to be used in rural areas, including tribal areas, and of which $4,000,000 shall be for capacity building activities administered by Habitat for Humanity International; $10,000,000 for the Native Hawaiian Housing Block Grant Program, as authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111 et seq.), of which $400,000 shall be for training and technical assistance; $60,000,000 shall be available for YouthBuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading: Provided, That local YouthBuild programs that demonstrate an ability to leverage private and nonprofit funding shall be given a priority for YouthBuild funding: Provided further, That no more than 10 percent of any grant award under the YouthBuild program may be used for administrative costs: Provided further, That of the amount made available for YouthBuild not less than $10,000,000 is for grants to establish YouthBuild programs in underserved and rural areas and $2,000,000 is to be made available for a grant to YouthBuild USA for capacity building for community development and affordable housing activities as specified in section 4 of the HUD Demonstration Act of 1993, as amended.

Of the amount made available under this heading, $21,000,000 shall be available for neighborhood initiatives that are utilized to improve the conditions of distressed and blighted areas and neighborhoods, to stimulate investment, economic diversification, and community revitalization in areas with population outmigration or a stagnating or declining economic base, or to determine whether housing benefits can be integrated more effectively with welfare reform initiatives: Provided, That these grants shall be provided in accordance with the terms and conditions specified in the report accompanying this Act.

Of the amount made available under this heading, $140,000,000 shall be available for grants for the Economic Development Initiative (EDI) to finance a variety of targeted economic investments in accordance with the terms and conditions specified in the report accompanying this Act.

The referenced statement of the managers under this heading in title II of Division K of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7; H. Rept. 108–10) is deemed to be amended with respect to item number 721 by striking ''training'' and inserting ''creation, small business development and quality of life improvements within the State of South Carolina''.

The referenced statement of the managers under this heading in title II of Division K of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7; H. Rept. 108–10) is deemed to be amended with respect to item number 317 by striking ''135,000'' and inserting ''151,000''.

The referenced statement of the managers under this heading in title II of Division K of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7; H. Rept. 108–10) is deemed to be amended with respect to item number 324 by striking ''225,000'' and inserting ''209,000''.

COMMUNITY DEVELOPMENT LOAN GUARANTEES PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, $6,325,000, to remain available until September 30, 2005, as authorized by section 108 of the Housing and Community Development 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, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $275,000,000, notwithstanding any aggregate limitation on outstanding obligations guaranteed in section 108(k) of the Housing and Community Development Act of 1974, as amended.

In addition, for administrative expenses to carry out the guaranteed loan program, $1,000,000 which shall be transferred to and merged with the appropriation for ''Salaries and expenses''.

BROWNFIELDS REDEVELOPMENT

For Economic Development Grants, as authorized by section 108(q) of the Housing and Community Development Act of 1974, as amended, for Brownfields redevelopment projects, $25,000,000, to remain available until September 30, 2005: Provided, That the Secretary of Housing and Urban Development shall make these grants available on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989.

HOME INVESTMENT PARTNERSHIPS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, $1,925,000,000, to remain available until September 30, 2006: Provided, That of the total amount provided in this paragraph, up to $40,000,000 shall be available for housing counseling under section 106 of the Housing and Urban Development Act of 1968; and no less than $1,100,000 shall be transferred to the Working Capital Fund for the development of, maintenance of, and modification to information technology systems which serve programs or activities under ''Community planning and development''.

In addition to the amounts made available under this heading, $50,000,000, to remain available until September 30, 2006, for assistance to homebuyers as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, as amended: Provided, That the Secretary shall provide such assistance in accordance with a formula developed through rulemaking.

HOMELESS ASSISTANCE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For the emergency shelter grants program as authorized under subtitle B of title IV of the

McKinney-Vento Homeless Assistance Act, as amended; the supportive housing program as authorized under subtitle C of title IV of such Act; the section 8 moderate rehabilitation single room occupancy program as authorized under the United States Housing Act of 1937, as amended, to assist homeless individuals pursuant to section 441 of the McKinney-Vento Homeless Assistance Act; and the shelter plus care program as authorized under subtitle F of title IV of such Act, $1,325,000,000, to remain available until September 30, 2006: Provided, That not less than 30 percent of funds made available, excluding amounts provided for renewals under the shelter plus care program, shall be used for permanent housing: Provided further, That all funds awarded for services shall be matched by 25 percent in funding by each grantee: Provided further, That the Secretary shall renew on an annual basis expiring contracts or amendments to contracts funded under the shelter plus care program if the program is determined to be needed under the applicable continuum of care and meets appropriate program requirements and financial standards, as determined by the Secretary: Provided further, That all awards of assistance under this heading shall be required to coordinate and integrate homeless programs with other mainstream health, social services, and employment programs for which homeless populations may be eligible, including Medicaid, State Children's Health Insurance Program, Temporary Assistance for Needy Families, Food Stamps, and services funding through the Mental Health and Substance Abuse Block Grant, Workforce Investment Act, and the Welfare-to-Work grant program: Provided further, That $12,000,000 of the funds appropriated under this heading shall be available for the national homeless data analysis project and technical assistance: Provided further, That no less than $2,580,000 of the funds appropriated under this heading shall be transferred to the Working Capital Fund for the development of and modifications to information technology systems which serve activities under ''Community planning and development''.

URBAN DEVELOPMENT ACTION GRANTS

From balances of the Urban Development Action Grant Program, as authorized by title I of the Housing and Community Development Act of 1974, as amended, $30,000,000 are cancelled.

HOUSING PROGRAMS

HOUSING FOR SPECIAL POPULATIONS

(INCLUDING TRANSFER OF FUNDS)

For assistance for the purchase, construction, acquisition, or development of additional public and subsidized housing units for low income families not otherwise provided for, $1,033,801,000, to remain available until September 30, 2007: Provided, That $783,286,000, plus recaptures or cancelled commitments, shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance for the elderly under section 202(c)(2) of such Act, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, and for supportive services associated with the housing, of which amount $50,000,000 shall be for service coordinators and the continuation of existing congregate service grants for residents of assisted housing projects, of which amount up to $30,000,000 shall be for grants under section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2) for conversion of eligible projects under such section to assisted living or related use, including substantial capital repair, of which amount $25,000,000 shall be maintained by the Secretary as a revolving loan fund for use as gap financing to assist grantees in meeting all the initial cost requirements for developing projects under section 202 of such Act: Provided further, That of the amount under this heading, $250,515,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, for project rental assistance for supportive housing for persons with disabilities under section 811(d)(2) of such Act, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, and for supportive services associated with the housing for persons with disabilities as authorized by section 811(b)(1) of such Act, and for tenant-based rental assistance contracts entered into pursuant to section 811 of such Act: Provided further, That of the amount made available under this heading, $15,000,000 shall be available to the Secretary of Housing and Urban Development only for making grants to private nonprofit organizations and consumer cooperatives for covering costs of architectural and engineering work, site control, and other planning relating to the development of supportive housing for the elderly that is eligible for assistance under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q): Provided further, That amounts made available in the previous proviso shall be awarded on a competitive basis as provided in section 102 of the Department of Housing and Urban Development Reform Act of 1989: Provided further, That no less than $940,000, to be divided evenly between the appropriations for the section 202 and section 811 programs, shall be transferred to the Working Capital Fund for the development of and modifications to information technology systems which serve activities under ''Housing programs'' or ''Federal housing administration'': Provided further, That, in addition to amounts made available for renewal of tenant-based rental assistance contracts pursuant to the second proviso of this paragraph, the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of such Act for tenant-based assistance, as authorized under that section, including such authority as may be waived under the next proviso, which assistance is 5 years in duration: Provided further, That the Secretary may waive the provisions governing the terms and conditions of project rental assistance and tenant-based rental assistance for such section 202 and such section 811, except that the initial contract term for such assistance shall not exceed 5 years in duration: Provided further, That all balances and recaptures, as of October 1, 2003, remaining in the ''Congregate housing services'' account as authorized by the Housing and Community Development Amendments of 1978, as amended, shall be transferred to and merged with the amounts for those purposes under this heading.

FLEXIBLE SUBSIDY FUND

(TRANSFER OF FUNDS)

From the Rental Housing Assistance Fund, all uncommitted balances of excess rental charges as of September 30, 2003, and any collections made during fiscal year 2004 (with the exception of amounts required to make refunds of excess income remittances as authorized by Public Law 106–569), shall be transferred to the Flexible Subsidy Fund, as authorized by section 236(g) of the National Housing Act, as amended.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

Up to $303,000,000 of recaptured section 236 budget authority resulting from prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall be rescinded in fiscal year 2004: Provided, That the limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 is reduced in fiscal year 2004 by not more than $303,000,000 in uncommitted balances of authorizations of contract authority provided for this purpose in appropriations Acts.

MANUFACTURED HOUSING FEES TRUST FUND

For necessary expenses as authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401 et seq.), $13,000,000, to remain available until expended, to be derived from the Manufactured Housing Fees Trust Fund: Provided, That not to exceed the total amount appropriated under this heading shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund pursuant to section 620 of such Act: Provided further, That the amount made available under this heading from the general fund shall be reduced as such collections are received during fiscal year 2004 so as to result in a final fiscal year 2004 appropriation from the general fund estimated at not more than $0 and fees pursuant to such section 620 shall be modified as necessary to ensure such a final fiscal year 2004 appropriation.

FEDERAL HOUSING ADMINISTRATION

MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 2004, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $185,000,000,000.

During fiscal year 2004, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $50,000,000: Provided, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under the Mutual Mortgage Insurance Fund.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $359,000,000, of which not to exceed $355,000,000 shall be transferred to the appropriation for ''Salaries and expenses''; and not to exceed $4,000,000 shall be transferred to the appropriation for ''Office of Inspector General''. In addition, for administrative contract expenses, $85,000,000, of which no less than $20,744,000 shall be transferred to the Working Capital Fund for the development of and modifications to information technology systems which serve programs or activities under ''Housing programs'' or ''Federal housing administration'': Provided, That to the extent guaranteed loan commitments exceed $65,500,000,000 on or before April 1, 2004, an additional $1,400 for administrative contract expenses shall be available for each $1,000,000 in additional guaranteed loan commitments (including a pro rata amount for any amount below $1,000,000), but in no case shall funds made available by this proviso exceed $30,000,000.

GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of loan guarantee modifications, as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended, $15,000,000, to remain available until expended: Provided, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, of up to $25,000,000,000.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238, and 519(a) of the National Housing Act, shall not exceed $50,000,000, of which not to exceed $30,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with

the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $229,000,000, of which $209,000,000, shall be transferred to the appropriation for ''Salaries and expenses''; and of which $20,000,000 shall be transferred to the appropriation for ''Office of Inspector General''.

In addition, for administrative contract expenses necessary to carry out the guaranteed and direct loan programs, $93,780,000, of which no less than $16,946,000 shall be transferred to the Working Capital Fund for the development of and modifications to information technology systems which serve activities under ''Housing programs'' or ''Federal housing administration'': Provided, That to the extent guaranteed loan commitments exceed $8,426,000,000 on or before April 1, 2004, an additional $1,980 for administrative contract expenses shall be available for each $1,000,000 in additional guaranteed loan commitments over $8,426,000,000 (including a pro rata amount for any increment below $1,000,000), but in no case shall funds made available by this proviso exceed $14,400,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

New commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $200,000,000,000, to remain available until September 30, 2005.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $10,695,000, to be derived from the GNMA guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $10,695,000, shall be transferred to the appropriation for ''Salaries and expenses''.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $47,000,000, to remain available until September 30, 2005: Provided, That of the total amount provided under this heading, $7,500,000 shall be for the Partnership for Advancing Technology in Housing (PATH) Initiative.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $50,000,000, to remain available until September 30, 2005, of which $20,000,000 shall be to carry out activities pursuant to such section 561: Provided, That no funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan.

OFFICE OF LEAD HAZARD CONTROL

LEAD HAZARD REDUCTION

For the Lead Hazard Reduction Program, as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, $175,000,000, to remain available until September 30, 2005, of which $10,000,000 shall be for the Healthy Homes Initiative, pursuant to sections 501 and 502 of the Housing and Urban Development Act of 1970: Provided, That both programs may include research, studies, evaluations, testing, and demonstration efforts, including education and outreach by units of general local government, community-based organizations and other appropriate entities concerning lead-based paint poisoning and other housing-related diseases and hazards: Provided, That of the total amount made available under this heading, $50,000,000 shall be made available on a competitive basis for areas with the highest lead paint abatement needs, as identified by the Secretary as having: (1) the highest number of pre-1940 units of rental housing; and (2) a disproportionately high number of documented cases of lead-poisoned children: Provided further, That each grantee receiving funds under the previous proviso shall target those privately owned units and multifamily buildings that are occupied by low-income families as defined under section 3(b)(2) of the United States Housing Act of 1937: Provided further, That not less than 90 percent of the funds made available under this paragraph shall be used exclusively for abatement, inspections, risk assessments, temporary relocations and interim control of lead-based hazards as defined by 42 U.S.C. 4851: Provided further, That each recipient of funds provided under the first proviso shall make a matching contribution in an amount not less than 25 percent: Provided further, That each applicant shall submit a detailed plan and strategy that demonstrates adequate capacity that is acceptable to the Secretary of the Department of Housing and Urban Development to carry out the proposed use of funds pursuant to a Notice of Funding Availability.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and not to exceed $25,000 for official reception and representation expenses, $1,111,530,000, of which $564,000,000 shall be provided from the various funds of the Federal Housing Administration, $10,695,000 shall be provided from funds of the Government National Mortgage Association, $1,000,000 shall be provided from the ''Community development loan guarantees program'' account, $150,000 shall be provided by transfer from the ''Native American housing block grants'' account, $250,000 shall be provided by transfer from the ''Indian housing loan guarantee fund program'' account and $35,000 shall be transferred from the ''Native Hawaiian housing loan guarantee fund'' account: Provided further, That the General Counsel of the Department of Housing and Urban Development shall have for fiscal year 2004 and all fiscal years hereafter overall responsibility for all issues related to appropriations law: Provided further, That the Secretary shall fill 7 out of 10 vacancies at the GS–14 and GS–15 levels until the total number of GS–14 and GS–15 positions in the Department has been reduced from the number of GS–14 and GS–15 positions on the date of enactment of Public Law 106–377 by 2½ percent: Provided further, That no funds shall be made available for the salaries (other than pensions and related costs) of any employees who had significant responsibility for allocating funding for the overleasing of vouchers by public housing agencies.

WORKING CAPITAL FUND

For additional capital for the Working Capitol Fund (42 U.S.C. 3535) for the development of, modifications to, and infrastructure for Department-wide information technology systems, and for the continuing operation of both Department-wide and program-specific information systems, $240,000,000, to remain available until September 30, 2005: Provided, That any amounts transferred to this Fund under this Act shall remain available until expended.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $102,000,000, of which $24,000,000 shall be provided from the various funds of the Federal Housing Administration: Provided, That the Inspector General shall have independent authority over all personnel issues within this office: Provided further, That no less than $300,000 shall be transferred to the Working Capital Fund for the development of and modifications to information technology systems for the Office of Inspector General.

CONSOLIDATED FEE FUND

(RESCISSION)

All unobligated balances remaining available from fees and charges under section 7(j) of the Department of Housing and Urban Development Act on October 1, 2003 are rescinded.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, including not to exceed $500 for official reception and representation expenses, $39,915,000, to remain available until expended, to be derived from the Federal Housing Enterprise Oversight Fund: Provided, That not less than 60 percent of the total amount made available under this heading shall be used for licensed audit personnel and audit support: Provided further, That an additional $10,000,000 shall be made available until expended, to be derived from the Federal Housing Enterprise Oversight Fund only upon a certification by the Secretary of the Treasury that these funds are necessary to meet an emergency need: Provided further, That not to exceed such amounts shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: Provided further, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than $0.

ADMINISTRATIVE PROVISIONS

SEC. 201. Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437 note) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not rescinded or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

SEC. 202. None of the amounts made available under this Act may be used during fiscal year 2004 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a non-frivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a Government official or entity, or a court of competent jurisdiction.

SEC. 203. (a) Notwithstanding section 854(c)(1)(A) of the AIDS Housing Opportunity

Act (42 U.S.C. 12903(c)(1)(A)), from any amounts made available under this title for fiscal year 2004 that are allocated under such section, the Secretary of Housing and Urban Development shall allocate and make a grant, in the amount determined under subsection (b), for any State that—

(1) received an allocation in a prior fiscal year under clause (ii) of such section; and

(2) is not otherwise eligible for an allocation for fiscal year 2004 under such clause (ii) because the areas in the State outside of the metropolitan statistical areas that qualify under clause (i) in fiscal year 2004 do not have the number of cases of acquired immunodeficiency syndrome (AIDS) required under such clause.

(b) The amount of the allocation and grant for any State described in subsection (a) shall be an amount based on the cumulative number of AIDS cases in the areas of that State that are outside of metropolitan statistical areas that qualify under clause (i) of such section 854(c)(1)(A) in fiscal year 2004, in proportion to AIDS cases among cities and States that qualify under clauses (i) and (ii) of such section and States deemed eligible under subsection (a).

SEC. 204. Except as explicitly provided in law, any grant or assistance made pursuant to title II of this Act shall be made on a competitive basis in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989.

SEC. 205. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 206. Unless otherwise provided for in this Act or through a reprogramming of funds, no part of any appropriation for the Department of Housing and Urban Development shall be available for any program, project or activity in excess of amounts set forth in the budget estimates submitted to Congress.

SEC. 207. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of such Act as may be necessary in carrying out the programs set forth in the budget for 2004 for such corporation or agency except as hereinafter provided: Provided, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 208. None of the funds provided in this title for technical assistance, training, or management improvements may be obligated or expended unless HUD provides to the Committees on Appropriations a description of each proposed activity and a detailed budget estimate of the costs associated with each program, project or activity as part of the Budget Justifications. For fiscal year 2004, HUD shall transmit this information to the Committees by March 15, 2004 for 30 days of review.

SEC. 209. Notwithstanding any other provision of law, in fiscal year 2004, in managing and disposing of any multifamily property that is owned or held by the Secretary and is occupied primarily by elderly or disabled families, the Secretary of Housing and Urban Development shall maintain any rental assistance payments under section 8 of the United States Housing Act of 1937 that are attached to any dwelling units in the property. To the extent the Secretary determines that such a multifamily property owned or held by the Secretary is not feasible for continued rental assistance payments under such section 8, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties or provide other rental assistance.

SEC. 210. A public housing agency or such other entity that administers Federal housing assistance in the States of Alaska, Iowa, and Mississippi shall not be required to include a resident of public housing or a recipient of assistance provided under section 8 of the United States Housing Act of 1937 on the board of directors or a similar governing board of such agency or entity as required under section (2)(b) of such Act. Each public housing agency or other entity that administers Federal housing assistance under section 8 in the States of Alaska, Iowa and Mississippi shall establish an advisory board of not less than 6 residents of public housing or recipients of section 8 assistance to provide advice and comment to the public housing agency or other administering entity on issues related to public housing and section 8. Such advisory board shall meet not less than quarterly.

SEC. 211. Section 24(n) of the United States Housing Act of 1937 (42 U.S.C. 1437v(n)) is amended by striking ''September 30, 2004'' and inserting ''September 30, 2006''.

SEC. 212. The Secretary of Housing and Urban Development shall provide quarterly reports to the House and Senate Committees on Appropriations regarding all uncommitted, unobligated, and excess funds in each program and activity within the jurisdiction of the Department and shall submit additional, updated budget information to these committees upon request.

SEC. 213. The Secretary of Housing and Urban Development shall submit an annual report no later than August 30, 2004 and annually thereafter to the House and Senate Committees on Appropriations regarding the number of Federally assisted units under lease and the per unit cost of these units to the Department of Housing and Urban Development.

SEC. 214. (a) Notwithstanding any other provision of law, the amount allocated for fiscal year 2004 and thereafter to the City of Philadelphia, Pennsylvania on behalf of the Philadelphia, PA–NJ Primary Metropolitan Statistical Area (hereafter ''metropolitan area''), under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), shall be adjusted by the Secretary of Housing and Urban Development by allocating to the State of New Jersey the proportion of the metropolitan area's amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area that is located in New Jersey. The State of New Jersey shall use amounts allocated to the State under this subsection to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in the portion of the metropolitan area that is located in New Jersey.

(b) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall allocate to Wake County, North Carolina, the amounts that otherwise would be allocated for fiscal year 2004 and thereafter under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) to the City of Raleigh, North Carolina, on behalf of the Raleigh-Durham-Chapel Hill, North Carolina Metropolitan Statistical Area. Any amounts allocated to Wake County shall be used to carry out eligible activities under section 855 of such Act (42 U.S.C. 12904) within such metropolitan statistical area.

SEC. 215. (a) During fiscal year 2004, in the provision of rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) in connection with a program to demonstrate the economy and effectiveness of providing such assistance for use in assisted living facilities that is carried out in the counties of the State of Michigan specified in subsection (b) of this section, notwithstanding paragraphs (3) and (18)(B)(iii) of such section 8(o), a family residing in an assisted living facility in any such county, on behalf of which a public housing agency provides assistance pursuant to section 8(o)(18) of such Act, may be required, at the time the family initially receives such assistance, to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such a percentage or amount as the Secretary of Housing and Urban Development determines to be appropriate.

(b) The counties specified in this subsection are Oakland County, Macomb County, Wayne County, and Washtenaw County, in the State of Michigan.

SEC. 216. Section 683(2) of the Housing and Community Development Act of 1992 is amended—

(1) in subparagraph (F), by striking ''and'';

(2) in subparagraph (G), by striking ''section.'' and inserting ''section; and''; and

(3) by adding the following new subparagraph at the end:

''(H) housing that is assisted under section 811 of the Cranston-Gonzalez National Affordable Housing Act.''.

SEC. 217. Section 224 of the National Housing Act (12 U.S.C. 1735o) is amended by adding the following new sentence at the end of the first paragraph: ''Notwithstanding the preceding sentence and the following paragraph, if an insurance claim is paid in cash for any mortgage that is insured under section 203 or 234 of this Act and is endorsed for mortgage insurance after the date of enactment of this sentence, the debenture interest rate for purposes of calculating such a claim shall be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of ten years.''.

SEC. 218. The McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) is amended—

(1) in section 101(b), by striking ''Interagency Council on the Homeless'' and inserting ''United States Interagency Council on Homelessness'';

(2) in section 102(b)(1), by striking ''an Interagency Council on the Homeless'' and inserting ''the United States Interagency Council on Homelessness'';

(3) in the heading for title II, by striking ''INTERAGENCY COUNCIL ON THE HOMELESS'' and inserting ''UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS'';

(4) in sections 201, 207(1), 501(c)(2)(a), and 501(d)(3), by striking ''Interagency Council on the Homeless'' and inserting ''United States Interagency Council on Homelessness''; and

(5) in section 204(c), by inserting after ''reimbursable'' the two places it appears the following: ''or nonreimbursable''.

SEC. 219. Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding the following new section at the end:

''PAYMENT REWARDS FOR CERTAIN SINGLE FAMILY MORTGAGES

''SEC. 257. For purposes of establishing an alternative to high cost mortgages for borrowers with credit impairments, the Secretary may insure under sections 203(b) and 234(c) of this title

any mortgage that meets the requirements of such sections, except as provided in the following sentences. The Secretary may establish lower percentage of appraised value limitations than those provided in section 203(b)(2)(B). Notwithstanding section 203(c)(2)(B), the Secretary may establish and collect annual premium payments in an amount not exceeding 1.0 percent of the remaining insured principal balance and such payments may be reduced or eliminated in subsequent years based on mortgage payment performance. All mortgages insured pursuant to this section shall be obligations of the Mutual Mortgage Insurance Fund notwithstanding section 519 of this Act.''.

SEC. 220. (a) INFORMATION COMPARISONS FOR PUBLIC AND ASSISTED HOUSING PROGRAMS.—Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended by adding at the end the following new paragraph:

''(7) INFORMATION COMPARISONS FOR HOUSING ASSISTANCE PROGRAMS.—

''(A) FURNISHING OF INFORMATION BY HUD.—Subject to subparagraph (G), the Secretary of Housing and Urban Development shall furnish to the Secretary, on such periodic basis as determined by the Secretary of Housing and Urban Development in consultation with the Secretary, information in the custody of the Secretary of Housing and Urban Development for comparison with information in the National Directory of New Hires, in order to obtain information in such Directory with respect to individuals who are participating in any program under—

''(i) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

''(ii) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

''(iii) section 221(d)(3), 221(d)(5), or 236 of the National Housing Act (12 U.S.C. 1715l(d) and 1715z–1);

''(iv) section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013); or

''(v) section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

''(B) REQUIREMENT TO SEEK MINIMUM INFORMATION.—The Secretary of Housing and Urban Development shall seek information pursuant to this section only to the extent necessary to verify the employment and income of individuals described in subparagraph (A).

''(C) DUTIES OF THE SECRETARY.—

''(i) INFORMATION DISCLOSURE.—The Secretary, in cooperation with the Secretary of Housing and Urban Development, shall compare information in the National Directory of New Hires with information provided by the Secretary of Housing and Urban Development with respect to individuals described in subparagraph (A), and shall disclose information in such Directory regarding such individuals to the Secretary of Housing and Urban Development, in accordance with this paragraph, for the purposes specified in this paragraph.

''(ii) CONDITION ON DISCLOSURE.—The Secretary shall make disclosures in accordance with clause (i) only to the extent that the Secretary determines that such disclosures do not interfere with the effective operation of the program under this part.

''(D) USE OF INFORMATION BY HUD.—The Secretary of Housing and Urban Development may use information resulting from a data match pursuant to this paragraph only—

''(i) for the purpose of verifying the employment and income of individuals described in subparagraph (A); and

''(ii) after removal of personal identifiers, to conduct analyses of the employment and income reporting of individuals described in subparagraph (A).

''(E) DISCLOSURE OF INFORMATION BY HUD.—

''(i) PURPOSE OF DISCLOSURE.—The Secretary of Housing and Urban Development may make a disclosure under this subparagraph only for the purpose of verifying the employment and income of individuals described in subparagraph (A).

''(ii) DISCLOSURES PERMITTED.—Subject to clause (iii), the Secretary of Housing and Urban Development may disclose information resulting from a data match pursuant to this paragraph only to a public housing agency, the Inspector General of the Department of Housing and Urban Development, and the Attorney General in connection with the administration of a program described in subparagraph (A). Information obtained by the Secretary of Housing and Urban Development pursuant to this paragraph shall not be made available under section 552 of title 5, United States Code.

''(iii) CONDITIONS ON DISCLOSURE.—Disclosures under this paragraph shall be—

''(I) made in accordance with data security and control policies established by the Secretary of Housing and Urban Development and approved by the Secretary;

''(II) subject to audit in a manner satisfactory to the Secretary; and

''(III) subject to the sanctions under subsection (l)(2).

''(iv) ADDITIONAL DISCLOSURES.—

''(I) DETERMINATION BY SECRETARIES.—The Secretary of Housing and Urban Development and the Secretary shall determine whether to permit disclosure of information under this paragraph to persons or entities described in subclause (II), based on an evaluation made by the Secretary of Housing and Urban Development (in consultation with and approved by the Secretary), of the costs and benefits of disclosures made under clause (ii) and the adequacy of measures used to safeguard the security and confidentiality of information so disclosed.

''(II) PERMITTED PERSONS OR ENTITIES.—If the Secretary of Housing and Urban Development and the Secretary determine pursuant to subclause (I) that disclosures to additional persons or entities shall be permitted, information under this paragraph may be disclosed by the Secretary of Housing and Urban Development to a private owner, a management agent, and a contract administrator in connection with the administration of a program described in subparagraph (A), subject to the conditions in clause (iii) and such additional conditions as agreed to by the Secretaries.

''(v) RESTRICTIONS ON REDISCLOSURE.—A person or entity to which information is disclosed under this subparagraph may use or disclose such information only as needed for verifying the employment and income of individuals described in subparagraph (A), subject to the conditions in clause (iii) and such additional conditions as agreed to by the Secretaries.

''(F) REIMBURSEMENT OF HHS COSTS.—The Secretary of Housing and Urban Development shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph.

''(G) CONSENT.—The Secretary of Housing and Urban Development shall not seek, use, or disclose information under this paragraph relating to an individual without the prior written consent of such individual (or of a person legally authorized to consent on behalf of such individual).''.

(b) CONSENT TO INFORMATION COMPARISON AND USE AS CONDITION OF HUD PROGRAM ELIGIBILITY.—As a condition of participating in any program authorized under—

(1) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(2) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(3) section 221(d)(3), 221(d)(5), or 236 of the National Housing Act (12 U.S.C. 1715l(d) and 1715z–1);

(4) section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013); or

(5) section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s),

the Secretary of Housing and Urban Development may require consent by an individual (or by a person legally authorized to consent on behalf of such individual) for such Secretary to obtain, use, and disclose information with respect to such individual in accordance with section 453(j)(7) of the Social Security Act (42 U.S.C. 653(j)(7)).

SEC. 221. Section 9 of the United States Housing Act of 1937 is amended by inserting at the end the following new subsection:

''(o) LOAN GUARANTEE DEVELOPMENT FUNDING.—

''(1) In order to facilitate the financing of the rehabilitation and development needs of public housing, the Secretary is authorized to provide loan guarantees for public housing agencies to enter into loans or other financial obligations with financial institutions for the purpose of financing the rehabilitation of a portion of public housing or the development off-site of public housing in mixed income developments (including demolition costs of the public housing units to be replaced), provided that the number of public housing units developed off-site replaces no less than an equal number of on-site public housing units in a project. Loans or other obligations entered into pursuant to this subsection shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary.

''(2) The Secretary may prohibit a public housing agency from obtaining a loan under this subsection only if the rehabilitation or replacement housing proposed by a public housing agency is inconsistent with its Public Housing Agency Plan, as submitted under section 5A, or the proposed terms of the guaranteed loan constitutes an unacceptable financial risk to the public housing agency or for repayment of the loan under this subsection.

''(3) Notwithstanding any other provision of this title, funding allocated to a public housing agency under subsections (d)(2) and (e)(2) of this section for capital and operating funds is authorized for use in the payment of the principal and interest due (including such servicing, underwriting or other costs as may be specified in the regulations of the Secretary) on the loans or other obligations entered into pursuant to this subsection.

''(4) The amount of any loan or other obligation entered into under this subsection shall not exceed in total the pro-rata amount of funds that would be allocated over a period not to exceed 30 years under subsections (d)(2) and (e)(2) of this section on a per unit basis as a percentage of the number of units that are designated to be rehabilitated or replaced under this subsection by a public housing agency as compared to the total number of units in the public housing development, as determined on the basis of funds made available under such subsections (d)(2) and (e)(2) in the previous year. Any reduction in the total amount of funds provided to a public housing agency under this section in subsequent years shall not reduce the amount of funds to be paid under a loan entered into under this subsection but instead shall reduce the capital and operating funds which are available for the other housing units in the public housing development in that fiscal year. Any additional income, including the receipt of rental income from tenants, generated by the rehabilitated or replaced units may be used to establish a loan loss reserve for the public housing agency to assist in the repayment of loans or other obligations entered into under this subsection or to address any shortfall in the operating or capital needs of the public housing agency in any fiscal year.

''(5) Subject to appropriations, the Secretary may use funds from the Public Housing Capital Fund to—

''(A) establish a loan loss reserve account within the Department of Housing and Urban Development to minimize the risk of loss associated with the repayment of loans guaranteed under this subsection,

''(B) make grants to a public housing agency for capital investment needs or for the creation of a loan loss reserve account to be used in conjunction with a loan made under this subsection for the rehabilitation of a portion of public housing or the development off-site of public housing in mixed income developments (including demolition costs of the public housing units to be replaced), or

''(C) or repay any losses associated with a loan guarantee under this subsection.

''(6) The Secretary may, to the extent approved in appropriations Acts, assist in the payment of all or a portion of the principal and interest amount due under the loan or other obligation entered into under this subsection, if the Secretary determines that the public housing agency is unable to pay the amount it owes because of circumstances of extreme hardship beyond the control of the public housing agency.''.

SEC. 222. Section 204(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11314(a)) is amended by striking in the first sentence after the word ''level'', ''V'', and inserting in its place ''III''.

SEC. 223. Notwithstanding any other provision of law, the State of Hawaii may elect by July 31, 2004 to distribute funds under section 106(d)(2) of the Housing and Community Development Act of 1974, to units of general local government located in nonentitlement areas of that State. If the State of Hawaii fails to make such election, the Secretary shall for fiscal years 2005 and thereafter make grants to the units of general local government located in the State of Hawaii's nonentitlement areas (Hawaii, Kauai, and Maui counties). The Secretary of Housing and Urban Development shall allocate funds under section 106(d) of such Act to units of general local government located in nonentitlement areas within the State of Hawaii in accordance with a formula which bears the same ratio to the total amount available for the nonentitlement areas of the State as the weighted average of the ratios between (1) the population of that eligible unit of general local government and the population of all eligible units of general local government in the nonentitlement areas of the State; (2) the extent of poverty in that eligible unit of general local government and the extent of poverty in all of the eligible units of general local government in the nonentitlement areas of the State; and (3) the extent of housing overcrowding in that eligible unit of general local government and the extent of housing overcrowding in all of the eligible units of general local government in the nonentitlement areas of the State. In determining the weighted average of the ratios described in the previous sentence, the ratio described in clause (2) shall be counted twice and the ratios described in clauses (1) and (3) shall be counted once. Notwithstanding any other provision, grants made under this section shall be subject to the program requirements of section 104 of the Housing and Community Development Act of 1974 in the same manner as such requirements are made applicable to grants made under section 106(b) of the Housing and Community Development Act of 1974.

SEC. 224. The Secretary of Housing and Urban Development shall issue a proposed rulemaking, in accordance with Title V, United States Code, not later than 90 days from the date of enactment of this Act that—

(1) addresses and expands, as necessary, the participation and certification requirements for the sale of HUD-owned multifamily housing projects and the foreclosure sale of any multifamily housing securing a mortgage held by the Secretary, including whether a potential purchaser is in substantial compliance with applicable state or local government housing statutes, regulations, ordinances and codes with regard to other properties owned by the purchaser; and

(2) requires any state, city, or municipality that exercises its right of first refusal for the purchase of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(i)) to ensure that potential purchasers of the project from the state, city, or municipality are subject to the same standards that they would otherwise be subject to if they had purchased the project directly from the Secretary, including whether a potential purchaser is in substantial compliance with applicable state or local government housing statutes, regulations, ordinances and codes with regard to other properties owned by the purchaser.

SEC. 225. Section 217 of Public Law 107–73 is amended by striking ''the rehabilitation'' and inserting in lieu thereof: ''redevelopment, including demolition and new construction''.

SEC. 226. NATIVE AMERICAN HOUSING. Of the amounts made available to carry out the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) for fiscal year 2004, there shall be made available to each grant recipient the same percentage of funding as each recipient received for fiscal year 2003.

SEC. 227. RURAL TEACHER HOUSING. Section 307 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note) is amended by adding at the end the following:

''(e) RURAL TEACHER HOUSING.—The Commission may make grants and loans to public school districts serving remote incorporated cities and unincorporated communities in Alaska (including Alaska Native Villages) with a population of 6,500 or fewer persons for expenses associated with the construction, purchase, lease, and rehabilitation of housing units in such cities and communities. Unless otherwise authorized by the Commission, such units may be occupied only by teachers, school administrators, and other school staff (including members of their households).''.

SEC. 228. The Secretary of Housing and Urban Development shall conduct negotiated rulemaking with representatives from interested parties for purposes of any changes to the formula governing the Public Housing Operating Fund. A final rule shall be issued no later than July 31, 2004.

TITLE III—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries, $35,000,000, to remain available until expended.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, as amended, including hire of passenger vehicles, uniforms or allowances therefore, as authorized by 5 U.S.C. 5901–5902, and for services authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $8,000,000, of which $5,500,000 is to remain available until September 30, 2004 and $2,500,000, of which is to remain available until September 30, 2005: Provided further, That the Chemical Safety and Hazard Investigation Board shall have not more than three career Senior Executive Service positions.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

To carry out the Community Development Banking and Financial Institutions Act of 1994, including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for ES–3, $70,000,000, to remain available until September 30, 2005, of which not less than $5,000,000 shall be for financial assistance, technical assistance, training and outreach programs designed to benefit Native American, Native Hawaiian, and Alaskan Native communities and provided primarily through qualified community development lender organizations with experience and expertise in community development banking and lending in Indian country, Native American organizations, tribes and tribal organizations and other suitable providers, and up to $12,000,000 may be used for administrative expenses, including administration of the New Markets Tax Credit, up to $6,000,000 may be used for the cost of direct loans, and up to $250,000 may be used for administrative expenses to carry out the direct loan program: Provided, That the cost of direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $11,000,000.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable under 5 U.S.C. 5376, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $60,000,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (the ''Corporation'') in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (the ''Act'') (42 U.S.C. 12501 et seq.), $452,575,000, to remain available until September 30, 2005: Provided, That not more than $330,000,000 of the amount provided under this heading shall be available for the National Service Trust under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.) and for grants under the National Service Trust Program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities of the AmeriCorps program), including grants to organizations operating projects under the AmeriCorps Education Awards Program (without regard to the requirements of sections 121(d) and (e), section 131(e), section 132, and sections 140(a), (d), and (e) of the Act): Provided further, That from the amount provided under the previous proviso, the Corporation may transfer funds as necessary, to remain available without fiscal year limitation, to the National Service Trust for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601), of which up to $5,000,000 shall be available to support national service scholarships for high school students performing community service: Provided further, That the Corporation shall approve and enroll AmeriCorps members pursuant to the Strengthen AmeriCorps Program Act (Public Law 108–45): Provided further, That of the amount provided under this heading for

grants under the National Service Trust program authorized under subtitle C of title I of the Act, not more than $50,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That not more than $14,575,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.), of which $5,000,000 shall be available for challenge grants to non-profit organizations: Provided further, That notwithstanding subtitle H of title I of the Act (42 U.S.C. 12853), none of the funds provided under the previous proviso shall be used to support salaries and related expenses (including travel) attributable to Corporation employees: Provided further, That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That not more than $10,000,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.), of which not more than $2,500,000 may be used to support an endowment fund, the corpus of which shall remain intact and the interest income from which shall be used to support activities described in title III of the Act, provided that the Foundation may invest the corpus and income in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, and other market instruments and securities but not in real estate investments: Provided further, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): Provided further, That not more than $5,000,000 of the funds made available under this heading shall be made available to America's Promise—The Alliance for Youth, Inc.: Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, and shall reduce the total Federal costs per participant in all programs by not less than 10 percent: Provided further, That the Inspector General of the Corporation for National and Community Service shall conduct random audits of the grantees that administer activities under the AmeriCorps programs and shall debar any grantee (or successor in interest or any entity with substantially the same person or persons in control) that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs, including any grantee that has been determined to have violated the prohibition of using Federal funds to lobby the Congress: Provided further, That the Inspector General shall obtain reimbursements in the amount of any misused funds from any grantee that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs: Provided further, That, for fiscal year 2004 and every year thereafter, the Corporation shall make any significant changes to program requirements or policy only through public notice and comment rulemaking: Provided further, That, for fiscal year 2004 and every year thereafter, during any grant selection process, no officer or employee of the Corporation shall knowingly disclose any covered grant selection information regarding such selection, directly or indirectly, to any person other than an officer or employee of the Corporation that is authorized by the Corporation to receive such information: Provided further, That the Corporation shall offer any individual selected after October 31, 2002, for initial enrollment or reenrollment as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) the option of receiving a national service educational award under subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.)'' after ''programs''.

SALARIES AND EXPENSES

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, the employment of experts and consultants authorized under 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses) involved in carrying out the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) involved in administration as provided under section 501(a)(4) of the Act, $25,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $6,500,000, to remain available until September 30, 2005.

ADMINISTRATIVE PROVISIONS

Notwithstanding any other provision of law, the term ''qualified student loan'' with respect to national service education awards shall mean any loan determined by an institution of higher education to be necessary to cover a student's cost of attendance at such institution and made, insured, or guaranteed directly to a student by a State agency, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

Notwithstanding any other provision of law, funds made available under section 129(d)(5)(B) of the National and Community Service Act to assist entities in placing applicants who are individuals with disabilities may be provided to any entity that receives a grant under section 121 of the Act.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by 38 U.S.C. 7251–7298, $16,220,000 of which $1,175,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000,000 for official reception and representation expenses, $32,000,000, to remain available until expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For necessary expenses for the National Institute of Environmental Health Sciences in carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, $78,774,000.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH

For necessary expenses for the Agency for Toxic Substances and Disease Registry (ATSDR) in carrying out activities set forth in sections 104(i), 111(c)(4), and 111(c)(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; section 118(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended; and section 3019 of the Solid Waste Disposal Act, as amended, $73,467,000, which may be derived to the extent funds are available from the Hazardous Substance Superfund Trust Fund pursuant to section 517(a) of SARA (26 U.S.C. 9507): Provided, That notwithstanding any other provision of law, in lieu of performing a health assessment under section 104(i)(6) of CERCLA, the Administrator of ATSDR may conduct other appropriate health studies, evaluations, or activities, including, without limitation, biomedical testing, clinical evaluations, medical monitoring, and referral to accredited health care providers: Provided further, That in performing any such health assessment or health study, evaluation, or activity, the Administrator of ATSDR shall not be bound by the deadlines in section 104(i)(6)(A) of CERCLA: Provided further, That none of the funds appropriated under this heading shall be available for ATSDR to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 2004, and existing profiles may be updated as necessary.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $715,579,000, which shall remain available until September 30, 2005.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals 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; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $9,000 for official reception and representation expenses, $2,219,659,000, which shall remain available until September 30, 2005, including administrative costs of the brownfields program under theSmall Business Liability Relief and Brownfields Revitalization Act of 2002, of which, in addition to any other amounts provided under this heading for the Office of Enforcement and Compliance Assurance, $5,400,000 shall be made available for that office.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $36,808,000, to remain available until September 30, 2005.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $42,918,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; $1,265,000,000 (of which $100,000,000 shall not become available until September 1, 2003), to remain available until expended, consisting of such sums as are available in the Trust Fund as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and up to $1,265,000,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, as amended: Provided, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: Provided further, That of the funds appropriated under this heading, $13,214,000 shall be transferred to the ''Office of Inspector General'' appropriation to remain available until September 30, 2005, and $45,000,000 shall be transferred to the ''Science and technology'' appropriation to remain available until September 30, 2005.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $72,545,000, to remain available until expended.

OIL SPILL RESPONSE

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $16,209,000, to be derived from the Oil Spill Liability trust fund, to remain available until expended.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $3,814,000,000, to remain available until expended, of which $1,350,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended (the ''Act''); $850,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended, except that, notwithstanding section 1452(n) of the Safe Drinking Water Act, as amended, none of the funds made available under this heading in this Act, or in previous appropriations Acts, shall be reserved by the Administrator for health effects studies on drinking water contaminants; $50,000,000 shall be for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $45,000,000 shall be for grants to the State of Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages: Provided, That, of these funds (1) 25 percent will be set aside for regional hub communities of populations over 1,000 but under 5,000, (2) the State of Alaska shall provide a match of 25 percent, (3) no more than 5 percent of the fund may be used for administrative and overhead expenses, and (4) a statewide priority list shall be established which shall remain in effect for at least three years; $3,500,000 shall be for remediation of above ground leaking fuel tanks pursuant to Public Law 106–554; $130,000,000 shall be for making grants for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection in accordance with the terms and conditions specified for such grants in the committee report accompanying this Act, and, notwithstanding any other provision of law, heretofore and hereafter, projects awarded such grants under this heading that also receive loans from a State water pollution control or drinking water revolving fund may be administered in accordance with applicable State water pollution control or drinking water revolving fund administrative and procedural requirements, and, for purposes of these grants, each grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Administrator of the Environmental Protection Agency; $100,500,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including grants, interagency agreements, and associated program support costs; and $1,130,000,000 shall be for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104–134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities of which and subject to terms and conditions specified by the Administrator, of which $60,000,000 shall be for carrying out section 128 of CERCLA, as amended, and $20,000,000 shall be for Environmental Information Exchange Network grants, including associated program support costs: Provided, That for fiscal year 2004, State authority under section 302(a) of Public Law 104–182 shall remain in effect: Provided further, That notwithstanding section 603(d)(7) of the Act, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in fiscal year 2004 and prior years where such amounts represent costs of administering the fund to the extent that such amounts are or were deemed reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration: Provided further, That for fiscal year 2004, and notwithstanding section 518(f) of the Act, the Administrator is authorized to use the amounts appropriated for any fiscal year under section 319 of that Act to make grants to Indian tribes pursuant to sections 319(h) and 518(e) of that Act: Provided further, That for fiscal year 2004, notwithstanding the limitation on amounts in section 518(c) of the Act, up to a total of 1½ percent of the funds appropriated for State Revolving Funds under title VI of that Act may be reserved by the Administrator for grants under section 518(c) of such Act: Provided further, That no funds provided by this legislation to address the water, wastewater and other critical infrastructure needs of the colonias in the United States along the United States-Mexico border shall be made available to a county or municipal government unless that government has established an enforceable local ordinance, or other zoning rule, which prevents in that jurisdiction the development or construction of any additional colonia areas, or the development within an existing colonia the construction of any new home, business, or other structure which lacks water, wastewater, or other necessary infrastructure: Provided further, That the referenced statement of the managers under this heading in Public Law 106–377 is deemed to be amended by striking ''wastewater'' in reference to item number 219 and inserting ''water'': Provided further, That the referenced statement of the managers under this heading in Public Law 108–7 is deemed to be amended by striking ''wastewater'' in reference to item number 409 and inserting ''water''.

ADMINISTRATIVE PROVISIONS

For fiscal year 2004, notwithstanding 31 U.S.C. 6303(1) and 6305(1), the Administrator of the Environmental Protection Agency, in carrying out the Agency's function to implement directly Federal environmental programs required or authorized by law in the absence of an acceptable tribal program, may award cooperative agreements to federally-recognized Indian Tribes or Intertribal consortia, if authorized by their member Tribes, to assist the Administrator in implementing Federal environmental programs for Indian Tribes required or authorized by law, except that no such cooperative agreements may be awarded from funds designated for State financial assistance agreements.

Notwithstanding CERCLA 104(k)(4)(B)(i)(IV), appropriated funds may hereafter be used to award grants or loans under section 104(k) of CERCLA to eligible entities that satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was prior to the date of enactment of the Small Business Liability Relief and Brownfield Revitalization Act of 2001.

For fiscal year 2004, notwithstanding any other provision of law, recipients of grants awarded under section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) may use funds for reasonable administrative costs, as determined by the Administrator of the Environmental Protection Agency.

Section 209(e)(1) of the Clean Air Act (42 U.S.C. 7543(e)(1)) is amended by—

(1) striking the words ''either of''; and

(2) in subparagraph (A), adding before the period at the end the following: '', and any new spark-ignition engines smaller than 50 horsepower''.

Not later than December 1, 2004, the Administrator of the Environmental Protection Agency shall propose regulations containing new standards applicable to emissions from new nonroad spark-ignition engines smaller than 50 horsepower.

DESIGNATIONS OF AREAS FOR $PM_{2.5}$ AND SUBMISSION OF IMPLEMENTATION PLANS FOR REGIONAL HAZE.

(a) IN GENERAL.—Section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) is amended by adding at the end the following:

''(6) DESIGNATIONS.—

''(A) SUBMISSION.—Notwithstanding any other provision of law, not later than February 15, 2004, the Governor of each State shall submit designations referred to in paragraph (1) for the July 1997 $PM_{2.5}$ national ambient air quality standards for each area within the State, based on air quality monitoring data collected in accordance with any applicable Federal reference methods for the relevant areas.

''(B) PROMULGATION.—Notwithstanding any other provision of law, not later than December 31, 2004, the Administrator shall, consistent with paragraph (1), promulgate the designations referred to in subparagraph (A) for each area of each State for the July 1997 $PM_{2.5}$ national ambient air quality standards.

''(7) IMPLEMENTATION PLAN FOR REGIONAL HAZE.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 3 years after the date on which the Administrator promulgates the designations referred to in paragraph (6)(B) for a State, the State shall submit, for the entire State, the State implementation plan revisions to

meet the requirements promulgated by the Administrator under section 169B(e)(1) (referred to in this paragraph as 'regional haze requirements').

''(B) NO PRECLUSION OF OTHER PROVISIONS.—Nothing in this paragraph precludes the implementation of the agreements and recommendations stemming from the Grand Canyon Visibility Transport Commission Report dated June 1996, including the submission of State implementation plan revisions by the States of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, or Wyoming by December 31, 2003, for implementation of regional haze requirements applicable to those States.''.

(b) RELATIONSHIP TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Except as provided in paragraphs (6) and (7) of section 107(d) of the Clean Air Act (as added by subsection (a)), section 6101, subsections (a) and (b) of section 6102, and section 6103 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 463), as in effect on the day before the date of enactment of this Act, shall remain in effect.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $7,027,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, and not to exceed $750 for official reception and representation expenses, $3,238,000: Provided, That, notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,848,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

GENERAL SERVICES ADMINISTRATION

FEDERAL CITIZEN INFORMATION CENTER FUND

For necessary expenses of the Federal Citizen Information Center, including services authorized by 5 U.S.C. 3109, $14,000,000, to be deposited into the Federal Citizen Information Center Fund: Provided, That the appropriations, revenues, and collections deposited into the Fund shall be available for necessary expenses of Federal Citizen Information Center activities in the aggregate amount not to exceed $21,000,000. Appropriations, revenues, and collections accruing to this Fund during fiscal year 2004 in excess of $21,000,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS

OPERATING EXPENSES

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, and the employment of experts and consultants under section 3109 of title 5, United States Code) of the Interagency Council on the Homeless in carrying out the functions pursuant to title II of the McKinney-Vento Homeless Assistance Act, as amended, $1,500,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SPACE FLIGHT CAPABILITIES

For necessary expenses, not otherwise provided for, in the conduct and support of space flight capabilities research and development activities, including research, development, operations, support and services; maintenance; construction of facilities including repair, rehabilitation, revitalization and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control and communications activities including operations, production, and services; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed $35,000 for official reception and representation expenses; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $7,582,100,000, to remain available until September 30, 2005, of which no less than $3,968,000,000 shall be available for activities related to the Space Shuttle and shall not be available for transfer to any other program or account, and no more than $1,507,000,000 shall be available for activities related to the International Space Station.

SCIENCE, AERONAUTICS AND EXPLORATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and exploration research and development activities, including research, development, operations, support and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control and communications activities including operations, production, and services; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed $35,000 for official reception and representation expenses; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $7,730,507,000, to remain available until September 30, 2005, of which amounts as determined by the Administrator for salaries and benefits; training, travel and awards; facility and related costs; information technology services; science, engineering, fabricating and testing services; and other administrative services may be transferred to ''Space flight capabilities'' in accordance with section 312(b) of the National Aeronautics and Space Act of 1958, as amended by Public Law 106–377.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $26,300,000.

ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the availability of funds appropriated for ''Science, aeronautics and exploration'', or ''Space flight capabilities'' by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated for institutional minor revitalization and construction of facilities, and institutional facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for ''Science, aeronautics and exploration'', or ''Space flight capabilities'' by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2006.

From amounts made available in this Act for these activities, the Administration may transfer amounts between aeronautics from the ''Science, aeronautics and exploration'' account to the ''Space flight capabilities'' account, provided NASA meets all reprogramming requirements.

Funds for announced prizes otherwise authorized shall remain available, without fiscal year limitation, until the prize is claimed or the offer is withdrawn.

NASA shall maintain a working capital fund in the United States Treasury and report to the Congress on the status of this fund by January 31, 2004. Amounts in the fund are available for financing activities, services, equipment, information, and facilities as authorized by law to be provided within the Administration; to other agencies or instrumentalities of the United States; to any State, Territory, or possession or political subdivision thereof; to other public or private agencies; or to any person, firm, association, corporation, or educational institution on a reimbursable basis. The fund shall also be available for the purpose of funding capital repairs, renovations, rehabilitation, sustainment, demolition, or replacement of NASA real property, on a reimbursable basis within the Administration. Amounts in the fund are available without regard to fiscal year limitation. The capital of the fund consists of amounts appropriated to the fund; the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the Administrator transfers to the fund, less the related liabilities and unpaid obligations; and payments received for loss or damage to property of the fund. The fund shall be reimbursed, in advance, for supplies and services at rates that will approximate the expenses of operation, such as the accrual of annual leave, depreciation of plant, property and equipment, and overhead.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides such activity under this Act. Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund under the same terms and conditions.

Notwithstanding any other provision of law, no funds under this Act or any other Act may be used to compensate any person who contracts with NASA who has otherwise chosen to retire early or has taken a buy-out.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 2004, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by 12 U.S.C. 1795 et seq., shall not exceed $1,500,000,000: Provided, That administrative expenses of the Central Liquidity Facility in fiscal year 2004 shall not exceed $310,000.

COMMUNITY DEVELOPMENT REVOLVING LOAN FUND

For the Community Development Revolving Loan Fund program as authorized by 42 U.S.C. 9812, 9822 and 9910, $1,500,000 shall be available: Provided, That of this amount $700,000, together with amounts of principal and interest on loans repaid, is available until expended for loans to community development credit unions, and $800,000 is available until September 30, 2005 for

technical assistance to low-income and community development credit unions.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; and authorized travel; $4,220,610,000, of which not to exceed $341,730,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 2005: Provided, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: Provided further, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: Provided further, That $90,000,000 of the funds available under this heading shall be made available for a comprehensive research initiative on plant genomes for economically significant crops.

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For necessary expenses for the acquisition, construction, commissioning, and upgrading of major research equipment, facilities, and other such capital assets pursuant to the National Science Foundation Act of 1950, as amended, including authorized travel, $149,680,000, to remain available until expended.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109, authorized travel, and rental of conference rooms in the District of Columbia, $975,870,000, to remain available until September 30, 2005: Provided, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For salaries and expenses necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $225,700,000: Provided, That contracts may be entered into under ''Salaries and expenses'' in fiscal year 2004 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF THE NATIONAL SCIENCE BOARD

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, and the employment of experts and consultants under section 3109 of title 5, United States Code) involved in carrying out section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) and Public Law 86–209 (42 U.S.C. 1880 et seq.), $3,900,000: Provided, That not more than $9,000 shall be available for official reception and representation expenses.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $10,000,000, to remain available until September 30, 2005.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $115,000,000, of which $5,000,000 shall be for a multi-family rental housing program.

ADMINISTRATIVE PROVISION

Section 605(a) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8104) is amended by—

(1) striking out ''compensation'' and inserting ''salary''; and striking out ''highest rate provided for GS–18 of the General Schedule under section 5332 of title 5 United States Code''; and inserting ''rate for level IV of the Executive Schedule''; and

(2) inserting after the end the following sentence: ''The Corporation shall also apply the provisions of section 5307(a)(1), (b)(1) and (b)(2) of title 5, United States Code, governing limitations on certain pay as if its employees were Federal employees receiving payments under title 5.''.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and not to exceed $750 for official reception and representation expenses; $26,308,000: Provided, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever the President deems such action to be necessary in the interest of national defense: Provided further, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: Provided further, That none of the funds appropriated under this heading may be used in direct support of the Corporation for National and Community Service.

TITLE IV—GENERAL PROVISIONS

SEC. 401. 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. 402. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made; or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 403. None of the funds provided in this Act to any department or agency may be obligated or expended for: (1) the transportation of any officer or employee of such department or agency between the domicile and the place of employment of the officer or employee, with the exception of an officer or employee authorized such transportation under 31 U.S.C. 1344 or 5 U.S.C. 7905; or (2) to provide a cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 404. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: Provided, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 405. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 406. None of the funds provided in this Act may be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 407. Except as otherwise provided under existing law, or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are: (1) a matter of public record and available for public inspection; and (2) thereafter included in a publicly available list of all contracts entered into within 24 months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 408. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), for a contract for services unless such executive agency: (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder; and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning: (A) the contract pursuant to which the report was prepared; and (B) the contractor who prepared the report pursuant to such contract.

SEC. 409. (a) 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) 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.

SEC. 410. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A–21.

SEC. 411. Such sums as may be necessary for fiscal year 2004 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 412. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 413. Except in the case of entities that are funded solely with Federal funds or any natural persons that are funded under this Act, none of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties to lobby or litigate in respect to adjudicatory proceedings funded in this Act. A chief executive officer of any entity receiving funds under this Act shall certify that none of these funds have been used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

SEC. 414. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 415. All Departments and agencies funded under this Act are encouraged, within the limits of the existing statutory authorities and funding, to expand their use of ''E-Commerce'' technologies and procedures in the conduct of their business practices and public service activities.

SEC. 416. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government that is established after the date of the enactment of this Act, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 417. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 418. SENSE OF THE SENATE. (a) FINDINGS.—The Senate finds that—

(1) 30 percent of American families have housing affordability problems, with 14,300,000 families paying more than half of their income for housing costs, and 17,300,000 families paying 30 to 50 percent of their income towards housing costs;

(2) 9,300,000 American families live in housing that is overcrowded or distressed;

(3) 3,500,000 households in the United States will experience homelessness at some point this year, including 1,350,000 children;

(4) the number of working families who are unable to afford adequate housing is increasing, as the gap between wages and housing costs grows;

(5) there is no county or metropolitan area in the country where a minimum wage earner can afford to rent a modest 2-bedroom apartment, and on average, a family must earn over $15 an hour to afford modest rental housing, which is almost 3 times the minimum wage;

(6) section 8 housing vouchers help approximately 2,000,000 families with children, senior citizens, and disabled individuals afford a safe and decent place to live;

(7) utilization of vouchers is at a high of 96 percent, and is on course to rise to 97 percent in fiscal year 2004, according to data provided by the Department of Housing and Urban Development;

(8) the average cost per voucher has also steadily increased from just over $6,400 in August of 2002, to $6,756 in April, 2003, due largely to rising rents in the private market, and the Congressional Budget Office estimates that the cost per voucher in fiscal year 2004 will be $7,028, $560 more per voucher than the estimate contained in the fiscal year 2004 budget request; and

(9) the congressionally appointed, bipartisan Millennial Housing Commission found that housing vouchers are ''the linchpin of a national housing policy providing very low-income renters access to privately-owned housing stock''.

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

(1) housing vouchers are a critical resource in ensuring that families in America can afford safe, decent, and adequate housing;

(2) public housing agencies must retain the ability to use 100 percent of their authorized vouchers to help house low-income families; and

(3) the Senate expects the Department of Housing and Urban Development to take all necessary actions to encourage full utilization of vouchers, and to use all legally available resources as needed to support full funding for housing vouchers in fiscal year 2004, so that every voucher can be used by a family in need.

SEC. 419. Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended—

(1) in paragraph (3)(A), by striking ''shall not exceed 2 percent'' and inserting ''shall not, subject to paragraph (6), exceed 3 percent'';

(2) in paragraph (5), by striking ''not to exceed 1 percent'' and inserting ''subject to paragraph (6), not to exceed 3 percent'';

(3) by redesignating the second paragraph (5) and paragraph (6) as paragraphs (7) and (8), respectively; and

(4) by inserting after paragraph (5) the following:

''(6) Of the amounts received under paragraph (1), the State may deduct not more than an aggregate total of 3 percent of such amounts for—

''(A) administrative expenses under paragraph (3)(A); and

''(B) technical assistance under paragraph (5).''.

SEC. 420. SEWER OVERFLOW CONTROL GRANTS. Section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) is amended—

(1) in subsection (f), by striking ''2002 and 2003'' and inserting ''2005 and 2006'';

(2) in subsection (g)(1)—

(A) in the paragraph heading, by striking ''2002'' and inserting ''2005''; and

(B) by striking ''2002'' and inserting ''2005'';

(3) in subsection (g)(2)—

(A) in the paragraph heading, by striking ''2003'' and inserting ''2006''; and

(B) by striking ''2003'' and inserting ''2006''; and

(4) in subsection (i), by striking ''2003'' and inserting ''2006''.

SEC. 421. (a) Congress makes the following findings:

(1) During Operation Desert Shield and Operation Desert Storm (in this section, collectively referred to as the ''First Gulf War''), the regime of Saddam Hussein committed grave human rights abuses and acts of terrorism against the people of Iraq and citizens of the United States.

(2) United States citizens who were taken prisoner by the regime of Saddam Hussein during the First Gulf War were brutally tortured and forced to endure severe physical trauma and emotional abuse.

(3) The regime of Saddam Hussein used civilian citizens of the United States who were working in the Persian Gulf region before and during the First Gulf War as so-called human shields, threatening the personal safety and emotional well-being of such civilians.

(4) Congress has recognized and authorized the right of United States citizens, including prisoners of war, to hold terrorist states, such as Iraq during the regime of Saddam Hussein, liable for injuries caused by such states.

(5) The United States district courts are authorized to adjudicate cases brought by individuals injured by terrorist states.

(b) It is the sense of Congress that—

(1) notwithstanding section 1503 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 579) and any other provision of law, a citizen of the United States who was a prisoner of war or who was used by the regime of Saddam Hussein and by Iraq as a so-called human shield during the First Gulf War should have the opportunity to have any claim for damages caused by the regime of Saddam Hussein and by Iraq incurred by such citizen fully adjudicated in the appropriate United States district court;

(2) any judgment for such damages awarded to such citizen, or the family of such citizen, should be fully enforced; and

(3) the Attorney General should enter into negotiations with each such citizen, or the family of each such citizen, to develop a fair and reasonable method of providing compensation for the damages each such citizen incurred, including using assets of the regime of Saddam Hussein held by the Government of the United States or any other appropriate sources to provide such compensation.

SEC. 422. None of the funds provided in this Act may be expended to apply, in a numerical estimate of the benefits of an agency action prepared pursuant to Executive Order 12866 or section 812 of the Clean Air Act, monetary values for adult premature mortality that differ based on the age of the adult.

SEC. 423. EXTENSION OF CERTAIN PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION AGREEMENTS. (a) EXTENSION.—The Secretary of Housing and Urban Development shall extend the term of the Moving to Work Demonstration Agreement entered into between a public housing agency and the Secretary under section 204, title V, of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134, April 26, 1996) if—

(1) the public housing agency requests such extension in writing;

(2) the public housing agency is not at the time of such request for extension in default under its Moving to Work Demonstration Agreement; and

(3) the Moving to Work Demonstration Agreement to be extended would otherwise expire on or before December 31, 2004.

(b) TERMS.—Unless the Secretary of Housing and Urban Development and the public housing agency otherwise agree, the extension under subsection (a) shall be upon the identical terms and conditions set forth in the extending agency's existing Moving to Work Demonstration Agreement, except that for each public housing agency that has been or will be granted an extension to its original Moving to Work agreement, the Secretary shall require that data be collected so that the effect of Moving to Work policy changes on residents can be measured.

(c) EXTENSION PERIOD.—The extension under subsection (a) shall be for such period as is requested by the public housing agency, not to exceed 3 years from the date of expiration of the extending agency's existing Moving to Work Demonstration Agreement.

(d) BREACH OF AGREEMENT.—Nothing contained in this section shall limit the authority of the Secretary of Housing and Urban Development to terminate any Moving to Work Demonstration Agreement of a public housing agency if the public housing agency is in breach of the provisions of such agreement.

SEC. 424. STUDY OF MOVING TO WORK PROGRAM. (a) IN GENERAL.—The General Accounting Office shall conduct a study of the Moving to Work demonstration program to evaluate—

(1) whether the statutory goals of the Moving to Work demonstration program are being met;

(2) the effects policy changes related to the Moving to Work demonstration program have had on residents; and

(3) whether public housing agencies participating in the Moving to Work program are meeting the requirements of the Moving to Work

demonstration program under law and any agreements with the Department of Housing and Urban Development.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the General Accounting Office shall submit to Congress a report on the study conducted under subsection (a).

SEC. 425. NATIONAL ACADEMY OF SCIENCES STUDY. The matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''ENVIRONMENTAL PROTECTION AGENCY'' in title III of division K of section 2 of the Consolidated Appropriations Resolution, 2003 (117 Stat. 513), is amended—

(1) in the first sentence of the fifth undesignated paragraph (beginning ''As soon as''), by inserting before the period at the end the following: '', and the impact of the final rule entitled 'Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Equipment Replacement Provision of the Routine Maintenance, Repair and Replacement Exclusion', amending parts 51 and 52 of title 40, Code of Federal Regulations, and published in electronic docket OAR-2002-0068 on August 27, 2003''; and

(2) in the sixth undesignated paragraph (beginning ''The National Academy of Sciences''), by striking ''March 3, 2004'' and inserting ''January 1, 2005''.

SEC. 426. There shall be made available $500,000 to the Secretary of Housing and Urban Development for the purposes of making the grant authorized under section 3 of the Paul and Sheila Wellstone Center for Community Building Act.

TITLE V—PESTICIDE PRODUCTS AND FEES

SEC. 501. PESTICIDE REGISTRATION. (a) SHORT TITLE.—This title may be cited as the ''Pesticide Registration Improvement Act of 2003''.

(b) REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDES.—Section 3(h) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(h)) is amended—

(1) in paragraph (2)(F), by striking ''90 to 180 days'' and inserting ''120 days''; and

(2) in paragraph (3)—

(A) in subparagraph (D)(vi), by striking ''240 days'' and inserting ''120 days''; and

(B) in subparagraph (F), by adding at the end the following:

''(iv) LIMITATION.—Notwithstanding clause (ii), the failure of the Administrator to notify an applicant for an amendment to a registration for an antimicrobial pesticide shall not be judicially reviewable in a Federal or State court if the amendment requires scientific review of data within—

''(I) the time period specified in subparagraph (D)(vi), in the absence of a final regulation under subparagraph (B); or

''(II) the time period specified in paragraph (2)(F), if adopted in a final regulation under subparagraph (B).''.

(c) MAINTENANCE FEES.—

(1) AMOUNTS FOR REGISTRANTS.—Section 4(i)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)) is amended—

(A) in subparagraph (A)—

(i) by striking ''(A) Subject'' and inserting the following:

''(A) IN GENERAL.—Subject''; and

(ii) by striking ''of—'' and all that follows through ''additional registration'' and inserting ''for each registration'';

(B) in subparagraph (D)—

(i) by striking ''(D) The'' and inserting the following:

''(D) MAXIMUM AMOUNT OF FEES FOR REGISTRANTS.—The'';

(ii) in clause (i), by striking ''shall be $55,000; and'' and inserting ''shall be—

''(I) for fiscal year 2004, $84,000;

''(II) for each of fiscal years 2005 and 2006, $87,000;

''(III) for fiscal year 2007, $68,000; and

''(IV) for fiscal year 2008, $55,000; and''; and

(iii) in clause (ii), by striking ''shall be $95,000.'' and inserting ''shall be—

''(I) for fiscal year 2004, $145,000;

''(II) for each of fiscal years 2005 and 2006, $151,000;

''(III) for fiscal year 2007, $117,000; and

''(IV) for fiscal year 2008, $95,000.''; and

(C) in subparagraph (E)—

(i) by striking ''(E)(i) For'' and inserting the following:

''(E) MAXIMUM AMOUNT OF FEES FOR SMALL BUSINESSES.—

''(i) IN GENERAL.—For'';

(ii) by indenting the margins of subclauses (I) and (II) of clause (i) appropriately; and

(iii) in clause (i)—

(I) subclause (I), by striking ''shall be $38,500; and'' and inserting ''shall be—

''(aa) for fiscal year 2004, $59,000;

''(bb) for each of fiscal years 2005 and 2006, $61,000;

''(cc) for fiscal year 2007, $48,000; and

''(dd) for fiscal year 2008, $38,500; and''; and

(II) in subclause (II), by striking ''shall be $66,500.'' and inserting ''shall be—

''(aa) for fiscal year 2004, $102,000;

''(bb) for each of fiscal years 2005 and 2006, $106,000;

''(cc) for fiscal year 2007, $82,000; and

''(dd) for fiscal year 2008, $66,500.''.

(2) TOTAL AMOUNT OF FEES.—Section 4(i)(5)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(a)–1(i)(5)(C)) is amended—

(A) by striking ''(C)(i) The'' and inserting the following:

''(C) TOTAL AMOUNT OF FEES.—The''; and

(B) by striking ''aggregate amount'' and all that follows through clause (ii) and inserting ''aggregate amount of—

''(i) for fiscal year 2004, $26,000,000;

''(ii) for fiscal year 2005, $27,000,000;

''(iii) for fiscal year 2006, $27,000,000;

''(iv) for fiscal year 2007, $21,000,000; and

''(v) for fiscal year 2008, $15,000,000.''.

(3) DEFINITION OF SMALL BUSINESS.—Section 4(i)(5)(E)(ii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)(E)(ii)) is amended—

(A) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and indenting the margins appropriately;

(B) by striking ''(ii) For purposes of'' and inserting the following:

''(ii) DEFINITION OF SMALL BUSINESS.—

''(I) IN GENERAL.—In'';

(C) in item (aa) (as so redesignated), by striking ''150'' and inserting ''500'';

(D) in item (bb) (as so redesignated), by striking ''gross revenue from chemicals that did not exceed $40,000,000.'' and inserting ''global gross revenue from pesticides that did not exceed $60,000,000.''; and

(E) by adding at the end the following:

''(II) AFFILIATES.—

''(aa) IN GENERAL.—In the case of a business entity with 1 or more affiliates, the gross revenue limit under subclause (I)(bb) shall apply to the gross revenue for the entity and all of the affiliates of the entity, including parents and subsidiaries, if applicable.

''(bb) AFFILIATED PERSONS.—For the purpose of item (aa), persons are affiliates of each other if, directly or indirectly, either person controls or has the power to control the other person, or a third person controls or has the power to control both persons.

''(cc) INDICIA OF CONTROL.—For the purpose of item (aa), indicia of control include interlocking management or ownership, identity of interests among family members, shared facilities and equipment, and common use of employees.''.

(4) EXTENSION OF AUTHORITY FOR COLLECTING MAINTENANCE FEES.—Section 4(i)(5)(H) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)(H)) is amended by striking ''2003'' and inserting ''2008''.

(5) REREGISTRATION AND OTHER ACTIVITIES.—Section 4(g)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136a–1(g)(2)) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—The Administrator shall make a determination as to eligibility for reregistration—

''(i) for all active ingredients subject to reregistration under this section for which tolerances or exemptions from tolerances are required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), not later than the last date for tolerance reassessment established under section 408(q)(1)(C) of that Act (21 U.S.C. 346a(q)(1)(C)); and

''(ii) for all other active ingredients subject to reregistration under this section, not later than October 3, 2008.'';

(B) in subparagraph (B)—

(i) by striking ''(B) Before'' and inserting the following:

''(B) PRODUCT-SPECIFIC DATA.—

''(i) IN GENERAL.—Before'';

(ii) by striking ''The Administrator'' and inserting the following:

''(ii) TIMING.—

''(I) IN GENERAL.—Subject to subclause (II), the Administrator''; and

(iii) by adding at the end the following:

''(II) EXTRAORDINARY CIRCUMSTANCES.—In the case of extraordinary circumstances, the Administrator may provide such a longer period, of not more than 2 additional years, for submission of data to the Administrator under this subparagraph.''; and

(C) in subparagraph (D)—

(i) by striking ''(D) If'' and inserting the following:

''(D) DETERMINATION TO NOT REREGISTER.—

''(i) IN GENERAL.—If''; and

(ii) by adding at the end the following:

''(ii) TIMING FOR REGULATORY ACTION.—Regulatory action under clause (i) shall be completed as expeditiously as possible.''.

(d) OTHER FEES.—

(1) IN GENERAL.—Section 4(i)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(6)) is amended—

(A) by striking ''During'' and inserting ''Except as provided in section 33, during''; and

(B) by striking ''2003'' and inserting ''2010''.

(2) TOLERANCE FEES.—Notwithstanding section 408(m)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)(1)), during the period beginning on October 1, 2003, and ending on September 30, 2008, the Administrator of the Environmental Protection Agency shall not collect any tolerance fees under that section.

(e) EXPEDITED PROCESSING OF SIMILAR APPLICATIONS.—Section 4(k)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(k)(3)) is amended—

(1) in the paragraph heading, by striking ''EXPEDITED'' and inserting ''REVIEW OF INERT INGREDIENTS; EXPEDITED''; and

(2) in subparagraph (A)—

(A) by striking ''1997'' and all that follows through ''of the maintenance fees'' and inserting ''2004 through 2006, approximately $3,300,000, and for each of fiscal years 2007 and 2008, between ⅛ and 1/7, of the maintenance fees'';

(B) by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II) and (III), respectively, and indenting appropriately; and

(C) by striking ''resources to assure the expedited processing and review of any application that'' and inserting ''resources—

''(i) to review and evaluate new inert ingredients; and

''(ii) to ensure the expedited processing and review of any application that—''.

(f) PESTICIDE REGISTRATION SERVICE FEES.—The Federal Insecticide, Fungicide, and

Rodenticide Act (7 U.S.C. 136a et seq.) is amended—

(1) by redesignating sections 33 and 34 (7 U.S.C. 136x, 136y) as sections 34 and 35, respectively; and

(2) by inserting after section 32 (7 U.S.C. 136w–7) the following:

"SEC. 33. PESTICIDE REGISTRATION SERVICE FEES.

''(a) DEFINITION OF COSTS.—In this section, the term 'costs', when used with respect to review and decisionmaking pertaining to an application for which registration service fees are paid under this section, means—

''(1) costs to the extent that—

''(A) officers and employees provide direct support for the review and decisionmaking for covered pesticide applications, associated tolerances, and corresponding risk and benefits information and analyses;

''(B) persons and organizations under contract with the Administrator engage in the review of the applications, and corresponding risk and benefits information and assessments; and

''(C) advisory committees and other accredited persons or organizations, on the request of the Administrator, engage in the peer review of risk or benefits information associated with covered pesticide applications;

''(2) costs of management of information, and the acquisition, maintenance, and repair of computer and telecommunication resources (including software), used to support review of pesticide applications, associated tolerances, and corresponding risk and benefits information and analyses; and

''(3) costs of collecting registration service fees under subsections (b) and (c) and reporting, auditing, and accounting under this section.

''(b) FEES.—

''(1) IN GENERAL.—Effective beginning on the effective date of the Pesticide Registration Improvement Act of 2003, the Administrator shall assess and collect covered pesticide registration service fees in accordance with this section.

''(2) COVERED PESTICIDE REGISTRATION APPLICATIONS.—

''(A) IN GENERAL.—An application for the registration of a pesticide covered by this Act that is received by the Administrator on or after the effective date of the Pesticide Registration Improvement Act of 2003 shall be subject to a registration service fee under this section.

''(B) EXISTING APPLICATIONS.—

''(i) IN GENERAL.—Subject to clause (ii), an application for the registration of a pesticide that was submitted to the Administrator before the effective date of the Pesticide Registration Improvement Act of 2003 and is pending on that effective date shall be subject to a service fee under this section if the application is for the registration of a new active ingredient that is not listed in the Registration Division 2003 Work Plan of the Office of Pesticide Programs of the Environmental Protection Agency.

''(ii) TOLERANCE OR EXEMPTION FEES.—The amount of any fee otherwise payable for an application described in clause (i) under this section shall be reduced by the amount of any fees paid to support the related petition for a pesticide tolerance or exemption under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

''(C) DOCUMENTATION.—An application subject to a registration service fee under this section shall be submitted with documentation certifying—

''(i) payment of the registration service fee; or

''(ii) a request for a waiver from or reduction of the registration service fee.

''(3) SCHEDULE OF COVERED APPLICATIONS AND REGISTRATION SERVICE FEES.—

''(A) IN GENERAL.—Not later than 30 days after the effective date of the Pesticide Registration Improvement Act of 2003, the Administrator shall publish in the Federal Register a schedule of covered pesticide registration applications and corresponding registration service fees.

''(B) REPORT.—Subject to paragraph (6), the schedule shall be the same as the applicable schedule appearing in the Congressional Record on pages S11631 through S11633, dated September 17, 2003.

''(4) PENDING PESTICIDE REGISTRATION APPLICATIONS.—

''(A) IN GENERAL.—An applicant that submitted a registration application to the Administrator before the effective date of the Pesticide Registration Improvement Act of 2003, but that is not required to pay a registration service fee under paragraph (2)(B), may, on a voluntary basis, pay a registration service fee in accordance with paragraph (2)(B).

''(B) VOLUNTARY FEE.—The Administrator may not compel payment of a registration service fee for an application described in subparagraph (A).

''(C) DOCUMENTATION.—An application for which a voluntary registration service fee is paid under this paragraph shall be submitted with documentation certifying—

''(i) payment of the registration service fee; or

''(ii) a request for a waiver from or reduction of the registration service fee.

''(5) RESUBMISSION OF PESTICIDE REGISTRATION APPLICATIONS.—If a pesticide registration application is submitted by a person that paid the fee for the application under paragraph (2), is determined by the Administrator to be complete, and is not approved or is withdrawn (without a waiver or refund), the submission of the same pesticide registration application by the same person (or a licensee, assignee, or successor of the person) shall not be subject to a fee under paragraph (2).

''(6) FEE ADJUSTMENT.—Effective for a covered pesticide registration application received on or after October 1, 2005, the Administrator shall—

''(A) increase by 5 percent the service fee payable for the application under paragraph (3); and

''(B) publish in the Federal Register the revised registration service fee schedule.

''(7) WAIVERS AND REDUCTIONS.—

''(A) IN GENERAL.—An applicant for a covered pesticide registration may request the Administrator to waive or reduce the amount of a registration service fee payable under this section under the circumstances described in subparagraphs (D) through (G).

''(B) DOCUMENTATION.—

''(i) IN GENERAL.—A request for a waiver from or reduction of the registration service fee shall be accompanied by appropriate documentation demonstrating the basis for the waiver or reduction.

''(ii) CERTIFICATION.—The applicant shall provide to the Administrator a written certification, signed by a responsible officer, that the documentation submitted to support the waiver or reduction request is accurate.

''(iii) INACCURATE DOCUMENTATION.—An application shall be subject to the applicable registration service fee payable under paragraph (3) if, at any time, the Administrator determines that—

''(I) the documentation supporting the waiver or reduction request is not accurate; or

''(II) based on the documentation or any other information, the waiver or reduction should not have been granted or should not be granted.

''(C) DETERMINATION TO GRANT OR DENY REQUEST.—As soon as practicable, but not later than 60 days, after the date on which the Administrator receives a request for a waiver or reduction of a registration service fee under this paragraph, the Administrator shall—

''(i) determine whether to grant or deny the request; and

''(ii) notify the applicant of the determination.

''(D) MINOR USES.—

''(i) IN GENERAL.—The Administrator may waive or reduce a registration service fee for an application for minor uses for a pesticide.

''(ii) SUPPORTING DOCUMENTATION.—An applicant requesting a waiver under this subparagraph shall provide supporting documentation that demonstrates, to the satisfaction of the Administrator, that anticipated revenues from the uses that are the subject of the application would be insufficient to justify imposition of the full application fee.

''(E) IR–4 WAIVER.—The Administrator shall waive the registration service fee for an application if the Administrator determines that—

''(i) the application is solely associated with a tolerance petition submitted in connection with the Inter-Regional Project Number 4 (IR–4) as described in section 2 of Public Law 89–106 (7 U.S.C. 450i(e)); and

''(ii) the waiver is in the public interest.

''(F) SMALL BUSINESSES.—

''(i) IN GENERAL.—The Administrator shall waive 50 percent of the registration service fees payable by an entity for a covered pesticide registration application under this section if the entity is a small business (as defined in section 4(i)(5)(E)(ii)) at the time of application.

''(ii) WAIVER OF FEES.—The Administrator shall waive all of the registration service fees payable by an entity under this section if the entity—

''(I) is a small business (as defined in section 4(i)(5)(E)(ii)) at the time of application; and

''(II) has average annual global gross revenues described in section 4(i)(5)(E)(ii)(I)(bb) that does not exceed $10,000,000, at the time of application.

''(iii) FORMATION FOR WAIVER.—The Administrator shall not grant a waiver under this subparagraph if the Administrator determines that the entity submitting the application has been formed or manipulated primarily for the purpose of qualifying for the waiver.

''(iv) DOCUMENTATION.—An entity requesting a waiver under this subparagraph shall provide to the Administrator—

''(I) documentation demonstrating that the entity is a small business (as defined in section 4(i)(5)(E)(ii)) at the time of application; and

''(II) if the entity is requesting a waiver of all registration service fees payable under this section, documentation demonstrating that the entity has an average annual global gross revenues described in section 4(i)(5)(E)(ii)(I)(bb) that does not exceed $10,000,000, at the time of application.

''(G) FEDERAL AND STATE AGENCY EXEMPTIONS.—An agency of the Federal Government or a State government shall be exempt from covered registration service fees under this section.

''(8) REFUNDS.—

''(A) EARLY WITHDRAWALS.—If, during the first 60 days after the beginning of the applicable decision time review period under subsection (f)(3), a covered pesticide registration application is withdrawn by the applicant, the Administrator shall refund all but 10 percent of the total registration service fee payable under paragraph (3) for the application.

''(B) WITHDRAWALS AFTER THE FIRST 60 DAYS OF DECISION REVIEW TIME PERIOD.—

''(i) IN GENERAL.—If a covered pesticide registration application is withdrawn after the first 60 days of the applicable decision time review period, the Administrator shall determine what portion, if any, of the total registration service fee payable under paragraph (3) for the application may be refunded based on the proportion of the work completed at the time of withdrawal.

''(ii) TIMING.—The Administrator shall—

''(I) make the determination described in clause (i) not later than 90 days after the date the application is withdrawn; and

''(II) provide any refund as soon as practicable after the determination.

''(C) DISCRETIONARY REFUNDS.—

''(i) IN GENERAL.—In the case of a pesticide registration application that has been filed with the Administrator and has not been withdrawn by the applicant, but for which the Administrator has not yet made a final determination, the Administrator may refund a portion of a covered registration service fee if the Administrator determines that the refund is justified.

''(ii) BASIS.—The Administrator may provide a refund for an application under this subparagraph—

''(I) on the basis that, in reviewing the application, the Administrator has considered data submitted in support of another pesticide registration application; or

''(II) on the basis that the Administrator completed portions of the review of the application before the effective date of this section.

''(D) CREDITED FEES.—In determining whether to grant a refund under this paragraph, the Administrator shall take into account any portion of the registration service fees credited under paragraph (2) or (4).

''(c) PESTICIDE REGISTRATION FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a Pesticide Registration Fund to be used in carrying out this section (referred to in this section as the 'Fund'), consisting of—

''(A) such amounts as are deposited in the Fund under paragraph (2);

''(B) any interest earned on investment of amounts in the Fund under paragraph (4); and

''(C) any proceeds from the sale or redemption of investments held in the Fund.

''(2) DEPOSITS IN FUND.—Subject to paragraph (4), the Administrator shall deposit fees collected under this section in the Fund.

''(3) EXPENDITURES FROM FUND.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and paragraph (4), the Administrator may make expenditures from the Fund—

''(i) to cover the costs associated with the review and decisionmaking pertaining to all applications for which registration service fees have been paid under this section; and

''(ii) to otherwise carry out this section.

''(B) WORKER PROTECTION.—For each of fiscal years 2004 through 2008, the Administrator shall use approximately 1/17 of the amount in the Fund (but not more than $1,000,000, and not less than $750,000, for any fiscal year) to enhance current scientific and regulatory activities related to worker protection.

''(C) NEW INERT INGREDIENTS.—For each of fiscal years 2004 and 2005, the Administrator shall use approximately 1/34 of the amount in the Fund (but not to exceed $500,000 for any fiscal year) for the review and evaluation of new inert ingredients.

''(4) COLLECTIONS AND APPROPRIATIONS ACTS.—The fees authorized by this section and amounts deposited in the Fund—

''(A) shall be collected and made available for obligation only to the extent provided in advance in appropriations Acts; and

''(B) shall be available without fiscal year limitation.

''(5) UNUSED FUNDS.—Amounts in the Fund not currently needed to carry out this section shall be—

''(A) maintained readily available or on deposit;

''(B) invested in obligations of the United States or guaranteed by the United States; or

''(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

''(d) ASSESSMENT OF FEES.—

''(1) DEFINITION OF COVERED FUNCTIONS.—In this subsection, the term 'covered functions' means functions of the Office of Pesticide Programs of the Environmental Protection Agency, as identified in key programs and projects of the final operating plan for the Environmental Protection Agency submitted as part of the budget process for fiscal year 2002, regardless of any subsequent transfer of 1 or more of the functions to another office or agency or the subsequent transfer of a new function to the Office of Pesticide Programs.

''(2) MINIMUM AMOUNT OF APPROPRIATIONS.—Registration service fees may not be assessed for a fiscal year under this section unless the amount of appropriations for salaries, contracts, and expenses for the functions (as in existence in fiscal year 2002) of the Office of Pesticide Programs of the Environmental Protection Agency for the fiscal year (excluding the amount of any fees appropriated for the fiscal year) are equal to or greater than the amount of appropriations for covered functions for fiscal year 2002 (excluding the amount of any fees appropriated for the fiscal year).

''(3) USE OF FEES.—Registration service fees authorized by this section shall be available, in the aggregate, only to defray increases in the costs associated with the review and decisionmaking for the review of pesticide registration applications and associated tolerances (including increases in the number of full-time equivalent positions in the Environmental Protection Agency engaged in those activities) over the costs for fiscal year 2002, excluding costs paid from fees appropriated for the fiscal year.

''(4) COMPLIANCE.—The requirements of paragraph (2) shall have been considered to have been met for any fiscal year if the amount of appropriations for salaries, contracts, and expenses for the functions (as in existence in fiscal year 2002) of the Office of Pesticide Programs of the Environmental Protection Agency for the fiscal year (excluding the amount of any fees appropriated for the fiscal year) is not more than 3 percent below the amount of appropriations for covered functions for fiscal year 2002 (excluding the amount of any fees appropriated for the fiscal year).

''(5) SUBSEQUENT AUTHORITY.—If the Administrator does not assess registration service fees under subsection (b) during any portion of a fiscal year as the result of paragraph (2) and is subsequently permitted to assess the fees under subsection (b) during the fiscal year, the Administrator shall assess and collect the fees, without any modification in rate, at any time during the fiscal year, notwithstanding any provisions of subsection (b) relating to the date fees are to be paid.

''(e) REFORMS TO REDUCE DECISION TIME REVIEW PERIODS.—To the maximum extent practicable consistent with the degrees of risk presented by pesticides and the type of review appropriate to evaluate risks, the Administrator shall identify and evaluate reforms to the pesticide registration process under this Act with the goal of reducing decision review periods in effect on the effective date of the Pesticide Registration Improvement Act of 2003 for pesticide registration actions for covered pesticide registration applications (including reduced risk applications).

''(f) DECISION TIME REVIEW PERIODS.—

''(1) IN GENERAL.—Not later than 30 days after the effective date of the Pesticide Registration Improvement Act of 2003, the Administrator shall publish in the Federal Register a schedule of decision review periods for covered pesticide registration actions and corresponding registration service fees under this Act.

''(2) REPORT.—The schedule shall be the same as the applicable schedule appearing in the Congressional Record on pages S11631 through S11633, dated September 17, 2003.

''(3) APPLICATIONS SUBJECT TO DECISION TIME REVIEW PERIODS.—The decision time review periods specified in paragraph (1) shall apply to—

''(A) covered pesticide registration applications subject to registration service fees under subsection (b)(2);

''(B) covered pesticide registration applications for which an applicant has voluntarily paid registration service fees under subsection (b)(4); and

''(C) covered pesticide registration applications listed in the Registration Division 2003 Work Plan of the Office of Pesticide Programs of the Environmental Protection Agency.

''(4) START OF DECISION TIME REVIEW PERIOD.—

''(A) IN GENERAL.—Except as provided in subparagraphs (C), (D), and (E), in the case of a pesticide registration application accompanied by the registration service fee required under this section, the decision time review period begins 21 days after the date on which the Administrator receives the covered pesticide registration application.

''(B) COMPLETENESS OF APPLICATION.—In conducting an initial screening of an application, the Administrator shall determine—

''(i) whether—

''(I) the applicable registration service fee has been paid; or

''(II) the application contains a waiver or refund request; and

''(ii) whether the application—

''(I) contains all necessary forms, data, draft labeling, and, documentation certifying payment of any registration service fee required under this section; or

''(II) establishes a basis for any requested waiver or reduction.

''(C) APPLICATIONS WITH WAIVER OR REDUCTION REQUESTS.—

''(i) IN GENERAL.—In the case of an application submitted with a request for a waiver or reduction of registration service fees under subsection (b)(7), the decision time review period shall be determined in accordance with this subparagraph.

''(ii) REQUEST GRANTED WITH NO ADDITIONAL FEES REQUIRED.—If the Administrator grants the waiver or reduction request and no additional fee is required, the decision time review period begins on the earlier of—

''(I) the date on which the Administrator grants the request; or

''(II) the date that is 60 days after the date of receipt of the application.

''(iii) REQUEST GRANTED WITH ADDITIONAL FEES REQUIRED.—If the Administrator grants the waiver or reduction request, in whole or in part, but an additional registration service fee is required, the decision time review period begins on the date on which the Administrator receives certification of payment of the applicable registration service fee.

''(iv) REQUEST DENIED.—If the Administrator denies the waiver or reduction request, the decision time review period begins on the date on which the Administrator receives certification of payment of the applicable registration service fee.

''(D) PENDING APPLICATIONS.—

''(i) IN GENERAL.—The start of the decision time review period for applications described in clause (ii) shall be the date on which the Administrator receives certification of payment of the applicable registration service fee.

''(ii) APPLICATIONS.—Clause (i) applies to—

''(I) covered pesticide registration applications for which voluntary fees have been paid under subsection (b)(4); and

''(II) covered pesticide registration applications received on or after the effective date of the Pesticide Registration Improvement Act of 2003 but submitted without the applicable registration service fee required under this section due to the inability of the Administrator to assess fees under subsection (d)(1).

''(E) 2003 WORK PLAN.—In the case of a covered pesticide registration application listed in the Registration Division 2003 Work Plan of the Office of Pesticide Programs of the Environmental Protection Agency, the decision time review period begins on the date that is 30 days after the effective date of the Pesticide Registration Improvement Act of 2003.

''(5) EXTENSION OF DECISION TIME REVIEW PERIOD.—The Administrator and the applicant may mutually agree in writing to extend a decision time review period under this subsection.

''(g) JUDICIAL REVIEW.—

''(1) IN GENERAL.—Any applicant adversely affected by the failure of the Administrator to make a determination on the application of the applicant for registration of a new active ingredient or new use for which a registration service fee is paid under this section may obtain judicial review of the failure solely under this section.

''(2) SCOPE.—

''(A) IN GENERAL.—In an action brought under this subsection, the only issue on review is whether the Administrator failed to make a determination on the application specified in paragraph (1) by the end of the applicable decision time review period required under subsection (f) for the application.

''(B) OTHER ACTIONS.—No other action authorized or required under this section shall be judicially reviewable by a Federal or State court.

''(3) TIMING.—

''(A) IN GENERAL.—A person may not obtain judicial review of the failure of the Administrator to make a determination on the application specified in paragraph (1) before the expiration of the 2-year period that begins on the date on which the decision time review period for the application ends.

''(B) MEETING WITH ADMINISTRATOR.—To be eligible to seek judicial review under this subsection, a person seeking the review shall first request in writing, at least 120 days before filing the complaint for judicial review, a decision review meeting with the Administrator.

''(4) REMEDIES.—The Administrator may not be required or permitted to refund any portion of a registration service fee paid in response to a complaint that the Administrator has failed to make a determination on the covered pesticide registration application specified in paragraph (1) by the end of the applicable decision review period.

''(h) ACCOUNTING.—The Administrator shall—

''(1) provide an annual accounting of the registration service fees paid to the Administrator and disbursed from the Fund, by providing financial statements in accordance with—

''(A) the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838) and amendments made by that Act; and

''(B) the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410) and amendments made by that Act;

''(2) provide an accounting describing expenditures from the Fund authorized under subsection (c); and

''(3) provide an annual accounting describing collections and expenditures authorized under subsection (d).

''(i) AUDITING.—

''(1) FINANCIAL STATEMENTS OF AGENCIES.—For the purpose of section 3515(c) of title 31, United States Code, the Fund shall be considered a component of an executive agency.

''(2) COMPONENTS.—The annual audit required under sections 3515(b) and 3521 of that title of the financial statements of activities under this section shall include an analysis of—

''(A) the fees collected under subsection (b) and disbursed;

''(B) compliance with subsection (f);

''(C) the amount appropriated to meet the requirements of subsection (d)(1); and

''(D) the reasonableness of the allocation of the overhead allocation of costs associated with the review and decisionmaking pertaining to applications under this section.

''(3) INSPECTOR GENERAL.—The Inspector General of the Environmental Protection Agency shall—

''(A) conduct the annual audit required under this subsection; and

''(B) report the findings and recommendations of the audit to the Administrator and to the appropriate committees of Congress.

''(j) PERSONNEL LEVELS.—All full-time equivalent positions supported by fees authorized and collected under this section shall not be counted against the agency-wide personnel level goals of the Environmental Protection Agency.

''(k) REPORTS.—

''(1) IN GENERAL.—Not later than March 1, 2005, and each March 1 thereafter through March 1, 2009, the Administrator shall publish an annual report describing actions taken under this section.

''(2) CONTENTS.—The report shall include—

''(A) a review of the progress made in carrying out each requirement of subsections (e) and (f), including—

''(i) the number of applications reviewed, including the decision times for each application specified in subsection (f);

''(ii) the number of actions pending in each category of actions described in subsection (f)(3), as well as the number of inert ingredients;

''(iii) to the extent determined appropriate by the Administrator and consistent with the authorities of the Administrator and limitations on delegation of functions by the Administrator, recommendations for—

''(I) expanding the use of self-certification in all appropriate areas of the registration process;

''(II) providing for accreditation of outside reviewers and the use of outside reviewers to conduct the review of major portions of applications; and

''(III) reviewing the scope of use of the notification process to cover broader categories of registration actions; and

''(iv) the use of performance-based contracts, other contracts, and procurement to ensure that—

''(I) the goals of this Act for the timely review of applications for registration are met; and

''(II) the registration program is administered in the most productive and cost effective manner practicable;

''(B) a description of the staffing and resources relating to the costs associated with the review and decisionmaking pertaining to applications; and

''(C) a review of the progress in meeting the timeline requirements of section 4(g).

''(3) METHOD.—The Administrator shall publish a report required by this subsection by such method as the Administrator determines to be the most effective for efficiently disseminating the report, including publication of the report on the Internet site of the Environmental Protection Agency.

''(l) SAVINGS CLAUSE.—Nothing in this section affects any other duties, obligations, or authorities established by any other section of this Act, including the right to judicial review of duties, obligations, or authorities established by any other section of this Act.

''(m) TERMINATION OF EFFECTIVENESS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the authority provided by this section terminates on September 30, 2008.

''(2) PHASE OUT.—

''(A) FISCAL YEAR 2009.—During fiscal year 2009, the requirement to pay and collect registration service fees applies, except that the level of registration service fees payable under this section shall be reduced 40 percent below the level in effect on September 30, 2008.

''(B) FISCAL YEAR 2010.—During fiscal year 2010, the requirement to pay and collect registration service fees applies, except that the level of registration service fees payable under this section shall be reduced 70 percent below the level in effect on September 30, 2008.

''(C) SEPTEMBER 30, 2010.—Effective September 30, 2010, the requirement to pay and collect registration service fees terminates.

''(D) DECISION REVIEW PERIODS.—

''(i) PENDING APPLICATIONS.—In the case of an application received under this section before September 30, 2008, the application shall be reviewed in accordance with subsection (f).

''(ii) NEW APPLICATIONS.—In the case of an application received under this section on or after September 30, 2008, subsection (f) shall not apply to the application.''.

(g) CONFORMING AMENDMENTS.—The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 136) is amended—

(1) by striking the item relating to section 4(k)(3) and inserting the following:

''(3) Review of inert ingredients; expedited processing of similar applications.'';

and

(2) by striking the items relating to sections 30 and 31 and inserting the following:

''Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.

''Sec. 31. Environmental Protection Agency minor use program.

''Sec. 32. Department of Agriculture minor use program.

''(a) In general.

''(b)(1) Minor use pesticide data.

''(2) Minor Use Pesticide Data Revolving Fund.

''Sec. 33. Pesticide registration service fees.

''(a) Definition of costs.

''(b) Fees.

''(1) In general.

''(2) Covered pesticide registration applications.

''(3) Schedule of covered applications and registration service fees.

''(4) Pending pesticide registration applications.

''(5) Resubmission of pesticide registration applications.

''(6) Fee adjustment.

''(7) Waivers and reductions.

''(8) Refunds.

''(c) Pesticide Registration Fund.

''(1) Establishment.

''(2) Transfers to Fund.

''(3) Expenditures from Fund.

''(4) Collections and appropriations Acts.

''(5) Unused funds.

''(d) Assessment of fees.

''(1) Definition of covered functions.

''(2) Minimum amount of appropriations.

''(3) Use of fees.

''(4) Compliance.

''(5) Subsequent authority.

''(e) Reforms to reduce decision time review periods.

''(f) Decision time review periods.

''(1) In general.

''(2) Report.

''(3) Applications subject to decision time review periods.

''(4) Start of decision time review period.

''(5) Extension of decision time review period.

''(g) Judicial review.

''(1) In general.

''(2) Scope.

''(3) Timing.

''(4) Remedies.

''(h) Accounting.

''(i) Auditing.

''(1) Financial statements of agencies.

''(2) Components.

''(3) Inspector General.

''(j) Personnel levels.

''(k) Reports.

''(1) In general.

''(2) Contents.

''(l) Savings clause.

''(m) Termination of effectiveness.

''(1) In general.

''(2) Phase out.

''Sec. 34. Severability.

''Sec. 35. Authorization for appropriations.''.

(h) EFFECTIVE DATE.—Except as otherwise provided in this section and the amendments made by this section, this section and the amendments made by this section take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 502. It is the sense of the Senate that human dosing studies of pesticides raises ethical and health questions.

This Act may be cited as the ''Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2004''.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. I ask unanimous consent the Senate insist upon its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

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

The Presiding Officer appointed Mr. BOND, Mr. BURNS, Mr. SHELBY, Mr. CRAIG, Mr. DOMENICI, Mr. DEWINE, Mrs. HUTCHISON, Mr. STEVENS, Ms. MIKULSKI, Mr. LEAHY, Mr. HARKIN, Mr. BYRD, Mr. JOHNSON, Mr. REID, and Mr. INOUYE conferees on the part of the Senate.

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

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

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2004

Mr. BOND. Mr. President, I ask unanimous consent that the Senate now resume consideration of H.R. 2765, the D.C. Appropriations bill; further, that an amendment that is at the desk regarding title II be agreed to, the motion to reconsider be laid upon the table. I further ask that the substitute amendment then be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table; provided further that the Senate then insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

Ms. LANDRIEU. Reserving the right to object, I do intend to make a few brief remarks and then will not object to the unanimous consent, but I would like to speak for as much time as I might consume. Hopefully, it will not be more than about 7 to 10 minutes.

The PRESIDING OFFICER. The Senator is recognized on her reservation.

Ms. LANDRIEU. Mr. President, I first compliment Senator DEWINE for the outstanding job he has done. He is in a meeting and is not in the Senate at this moment, but we have worked closely together in our capacity now as chair and ranking member, as when I chaired the committee and he served as the ranking member. We have worked together through many different issues. I cannot say enough about his commitment to helping steer a bill that in many instances is contentious—not necessarily because of anything related to the District of Columbia specifically, but of other ideas and ideologies that sometimes find their way into this bill. He and I are both very sensitive to that and support the new leadership team of the District and have tried our best to steer this bill through for the District as well as for the Nation.

I wanted to begin by complimenting him and also say, second, there are some terrific new initiatives in this bill, very much needed. One, led by Senator DEWINE, is the continued effort to reform the foster care system, first acknowledging the Mayor himself has taken quite a leadership role and has appointed very able leaders in the District to take a system that is broken, that was in many ways completely dysfunctional, and to begin to bring framework, parameters, results to it which will literally save children's lives, heal families, and find homes for children who have no homes.

Senator DEWINE and I believe, along with Mayor Williams, there is no such thing as an unwanted child; there are just unfound families. There are indeed families not only in the District of Columbia but around the Nation which are in need of our assistance, our charity, our help, and our care. When we cannot heal a family and keep them strong to raise the children born to them, it is our responsibility to find a new family for that child or that sibling as quickly as possible. We will not stop until it is achieved. Senator DEWINE has provided some additional framework in which to make that possible.

In addition, I am very pleased, along with Senator BYRD, who chaired this committee for many years, that there is also a critical infrastructure piece which indicates we as a Congress have a responsibility, in that the District is not a State, it does not have a State government but it has the same needs, and Congress has stepped up for infrastructure investments in the District which benefit the whole region—Maryland and Virginia as well. One of the primary projects we have funded is the cleanup of the Anacostia waterway which affects the region. It is a major environmental project getting tremendous help and support in this bill.

The security enhancements for emergency planning for the District, I need not tell of its importance. It is in the Nation's Capital, under the threat of terror, that we continue to function. We know how important that is. I begin with compliments to the Chair for including these and many other provisions.

I take the next 5 minutes to lay down some other important points regarding the most contentious issue in this bill. This issue was at the core or center of the debate over the future of public education in the United States of America. It has to do with a proposal of vouchers, taking money from public schools to send children to private schools. That issue is the center of debate over the future of public schools in America. It is that issue, unfortunately, because of the nature of the process in the Senate, which is going to be put into the omnibus appropriations bill. I want to go on record as strongly objecting to it once again and to set the myths from the facts.

The first myth is: The voucher proposal does not drain money from public schools or from other Federal priorities, that this is ''new'' money.

For the record, the $40 million used to pay for this three-pronged approach—of which a third is for vouchers—was taken from the Commerce-Justice-State bill. In other words, that is $39 million less spent on law enforcement, homeland security, or health care.

Again, this is not new money. There were no new taxes raised. There were no new taxes identified to pay for this. This $39 million came out of already existing Federal revenues that are now going to fund vouchers for 1,500 children in the District of Columbia. It is not new money. It is coming from the Commerce-Justice-State bill. I contend unless a new tax is raised at the Federal level or in the District of Columbia, it is not new money. It is a myth.

The next myth I would like to put to rest is the voucher proposal is limited to children in failing schools. Some of us who have opposed this proposal, without certain amendments, have continued to say—not everybody on the Democratic side, for sure, but I have said, as the ranking member, I could support a program that had full accountability and was aimed at helping children in failing schools. Why? Because it is not their fault the schools have failed. It is our fault. It is not necessarily their parents' fault, because parents do not run the schools. Parents are busy trying to run their households, take care of their children, and sometimes work two or three jobs. If we have failed the children, then let us give them help as we reconstitute those schools under the new accountability proposal, and give them some temporary help to move to a school that might be performing.

I offered that proposal. It was rejected. This proposal is not limited or designed specifically for children in failing schools because the power behind this wants to undermine public schools, not help poor children in failing schools. That is the truth.

The fact is, there is nothing in this language that prevents a child enrolled in a high-performing public school or a private school, for that matter, from attending a private school at public expense.

Let me repeat, there is nothing in the language the Republican majority is pushing that prevents a child enrolled in a high-performing public or private school from attending a private school at public expense, with no accountability to the public taxpayer.

The third myth is this is not just a voucher demonstration program; it is a balanced, three-pronged approach for school improvement.

The fact is, in the language pushed by the Republican majority, the only part of this three-pronged demonstration program that is authorized to receive funding for more than 1 year is the voucher portion. What is more, the

only one that will be evaluated for success at the end of 5 years is the voucher program.

First, let me say the only part of this demonstration program that is authorized in this bill to receive funding for more than 1 year is for vouchers. My opponents will say: Senator, the other funding is authorized in other parts of the education bill. That may be correct. Technically, it is correct. But in this proposal—that has been sold, and sold again, once, twice, and sold as a three-pronged approach—this language only has one prong that is authorized and funded, and that is vouchers. That is a fact, and that is wrong.

What is more, the proponents will say at least one good thing at the end of this 5-year ''demonstration project'' is, we will know definitively whether vouchers work or not. The fact is, Senator CARPER and I, who tried to negotiate a compromise, felt strongly that would be a very good benefit to know finally. Cleveland and Milwaukee have demonstrated with this. There is so much misinformation. We said, at least it would be worth it to our Democrats who oppose it and to Republicans who think vouchers are the answer, the only answer, to public schools in the Nation, and that is what they want. I think they are wrong. We said, let's have a comprehensive demonstration program. But this language does not have the evaluation language. It dropped the evaluation language. The only thing we will know is, do children who receive vouchers do better in higher performing private schools than they did in poorly performing public schools? I would suggest we already know the answer to that. We do not have to spend $13 million of taxpayer money that is unaccountable to find out. We already know the answer to that.

What we do not know the answer to is if children are given vouchers to leave a low-performing public school to go to a higher performing private school, or if those same children are given a chance in a higher performing public school, or if those same children are given a chance in a higher performing public charter school, do they do essentially better? Does the voucher itself, the essence of the voucher itself, have any bearing on the academic achievement of the child? That we do not know, and we will not find out, thanks to the language that is in this bill.

The fourth myth is: At the end of this 5-year demonstration program, we will finally know if vouchers are a solution. I spoke about that.

The fifth myth is: Vouchers help to improve student achievement. We will not know that after 5 years because of the language that was taken out.

In conclusion, there were some of us willing to support a true three-pronged demonstration program. This is only one prong. There were some of us who would be willing to say we could go through the demonstration if, at the end, we actually knew and had the tight evaluation that would tell us some answers the country would be very interested in knowing. That language was dropped.

There were some of us who said, if accountability was part of this, as the administration promised—accountability, not just to the parents, and not just responsibility to students, but accountability to the taxpayers who pick up millions and millions of dollars—billions of dollars—in education expenses—they want to know, is their money working. But the authors—not Senator DEWINE, the chairman, but others who have pushed this—are obviously not interested in letting the taxpayers know if their money is actually accomplishing anything, because the test language and the accountability language has been dropped. It is a false hope.

I will conclude. When we make promises to people with power and money and status, and we do not keep those promises, that is bad enough. But when we offer false hope to children who have very little, to families which have been discriminated against, to poor people who have little, and we fail to keep those promises, that is a sin indeed. We should be ashamed of the actions that represent this bill today.

I withdraw my objection to the unanimous consent request.

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

The amendment (No. 2201) was agreed to, as follows:

AMENDMENT NO. 2201 TO AMENDMENT NO. 1783

Strike all of title II, beginning on page 14, line 17, and ending on page 33, line 14.

On page 13, line 21, strike ''40,000,000'' and insert ''27,000,000''.

On page 14, line 1, strike all after the semicolon until the end of the heading.

On page 9, line 19, strike ''20,000,000'' and insert ''33,000,000''.

The amendment (No. 1783) in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 2765), as amended, was read the third time and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2765) entitled ''An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.'', do pass with the following *amendment:*

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia and related agencies for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $17,000,000, to remain available until expended: Provided, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education: Provided further, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: Provided further, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: Provided further, That the Resident Tuition Support Program Office and the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: Provided further, That not more than 7 percent of the total amount appropriated for this program may be used for administrative expenses.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, $15,000,000, to remain available until expended, to reimburse the District of Columbia for the costs of public safety expenses related to security events in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: Provided, That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted by the President to Congress and such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

FEDERAL PAYMENT FOR HOSPITAL BIOTERRORISM PREPAREDNESS IN THE DISTRICT OF COLUMBIA

For a Federal payment to support hospital bioterrorism preparedness in the District of Columbia, $10,000,000, of which $7,000,000 shall be for the Children's National Medical Center in the District of Columbia for the expansion of quarantine facilities and the establishment of a decontamination facility, and $3,000,000 shall be for the Washington Hospital Center for construction of containment facilities.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, $172,104,000, to be allocated as follows: for the District of Columbia Court of Appeals, $8,775,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, $83,387,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Court System, $40,006,000, of which not to exceed $1,500 is for official reception and representation expenses; and $39,936,000 for capital improvements for District of Columbia courthouse facilities: Provided, That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: Provided further, That notwithstanding any other provision of law, all amounts under this heading

shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: Provided further, That funds made available for capital improvements may remain available until September 30, 2005: Provided further, That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than $1,000,000 of the funds provided under this heading among the items and entities funded under such heading.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11–2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in adoption proceedings under Chapter 3 of title 16, D.C. Code, payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code or pursuant to a contract with a non-profit organization to provide guardian ad litem representation, training, technical assistance and such other services as are necessary to improve the quality of guardian ad litem representation, and payments for counsel authorized under section 21–2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $32,000,000, to remain available until expended: Provided, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: Provided further, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia, and the Public Defender Service for the District of Columbia as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, $173,396,000, of which not to exceed $25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002, of which not to exceed $2,000 is for official receptions and representation expenses related to Community and Pretrial Services Agency Programs; of which $110,775,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which $25,210,000 shall be transferred to the Public Defender Service for the District of Columbia to include expenses relating to the provision of legal representation and including related services provided to the local courts and Criminal Justice Act bar; and of which $37,411,000 shall be available to the Pretrial Services Agency: Provided, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: Provided further, That notwithstanding chapter 33 of title 40, United States Code, the Director shall acquire by purchase, lease, condemnation, or donation, and renovate as necessary, Building Number 17, 1900 Massachusetts Avenue, Southeast, Washington, District of Columbia to house or supervise offenders and defendants, with funds made available for this purpose in Public Law 107–96: Provided further, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: Provided further, That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: Provided further, That the Director is authorized to accept appropriation reimbursements from the District of Columbia Government for space and services provided on a cost reimbursable basis: Provided further, That these reimbursements are subject to approved apportionments from the Office of Management and Budget.

FEDERAL PAYMENT TO THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Chief Financial Officer of the District of Columbia, $33,000,000: Provided, That these funds shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: Provided further, That each entity that receives funding under this heading shall submit to the Committees on Appropriations of the House of Representatives and Senate a report due March 15, 2004, on the activities carried out with such funds.

FEDERAL PAYMENT FOR TRANSPORTATION ASSISTANCE

For a Federal payment to the District of Columbia Department of Transportation, $3,500,000, of which $500,000 shall be allocated to implement a downtown circulator transit system, and of which $3,000,000 shall be to offset a portion of the District of Columbia's allocated operating subsidy payment to the Washington Metropolitan Area Transit Authority.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, $25,000,000, to remain available until expended, to continue implementing the Combined Sewer Overflow Long-Term Control Plan: Provided, That the District of Columbia Water and Sewer Authority provides a 100 percent match for the fiscal year 2004 Federal contribution.

FEDERAL PAYMENT FOR THE ANACOSTIA WATERFRONT INITIATIVE IN THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia Department of Transportation, for implementation of the Anacostia Waterfront Initiative, $6,000,000, to remain available until expended.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR CAPITAL DEVELOPMENT

For a Federal payment to the District of Columbia for capital development, $5,000,000, to remain available until expended, for the Unified Communications Center.

FEDERAL PAYMENT TO CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal payment to Children's National Medical Center, $10,000,000, for construction costs associated with the expansion of a neonatal care unit, pediatric intensive care unit, and cardiac intensive care unit.

FEDERAL PAYMENT TO ST. COLETTA OF GREATER WASHINGTON EXPANSION PROJECT

For a Federal payment to St. Coletta of Greater Washington, Inc., $2,000,000, for costs associated with establishment of a day program and comprehensive case management services for mentally retarded and multiple-handicapped adolescents and adults in the District of Columbia, including property acquisition and construction.

FEDERAL PAYMENT FOR FOSTER CARE IMPROVEMENTS IN THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia for foster care improvements, $14,000,000: Provided, That $9,000,000 shall be for the Child and Family Services Agency, of which $2,000,000 shall be to establish an early intervention unit to provide intensive and immediate services for foster children; of which $1,000,000 shall be to establish an emergency support fund to purchase items necessary to allow children to remain in the care of an approved family member; of which $3,000,000 shall be for a loan repayment program for social workers who meet certain agency-established requirements; of which $3,000,000 shall be to upgrade the agency's computer database to a web-based technology and to provide computer technology for social workers: Provided further, That $3,900,000 shall be for the Department of Mental Health to provide all court-ordered mental health assessments and treatments for children under the supervision of the Child and Family Services Agency: Provided further, That the Director of the Department of Mental Health shall ensure that court-ordered mental health assessments are completed within 15 days of the court order and that all assessments be provided to the Court within 5 days of completion of the assessment: Provided further, That the Director shall initiate court-ordered mental health services within 10 days of the issuance of an order: Provided further, That $1,100,000 shall be for the Washington Metropolitan Council of Governments to develop a program to provide respite care for and recruitment of foster parents: Provided further, That the Mayor shall submit a detailed expenditure plan for the use of funds provided under this heading within 15 days of enactment of this legislation to the Committees on Appropriations of the House of Representatives and Senate: Provided further, That the funds provided under this heading shall not be made available until 30 calendar days after the submission to Congress of a spending plan: Provided further, That no part of this appropriation may be used for contractual community-based services: Provided further, That the Comptroller General shall prepare and submit to the Committees on Appropriations of the House and Senate an accounting of all obligations and expenditures of the funds provided under this heading: Provided further, That the Comptroller General shall initiate management reviews of the Child and Family Services Agency and the Department of Mental Health and submit a report to the Committees on Appropriations of the House and Senate no later than 6 months after enactment of this Act.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For a Federal payment for a School Improvement Program in the District of Columbia,

$27,000,000, to be allocated as follows: for the State Education Office, $13,000,000 to improve public school education in the District of Columbia; for the State Education Office, $13,000,000 to expand quality charter schools in the District of Columbia.

AUTHORIZATION OF APPROPRIATIONS

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

TITLE II—DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: Provided, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act and provisions of this Act (D.C. Official Code, sec. 1–204.50a), the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2004 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $6,326,138,000 (of which $3,832,734,000 shall be from local funds (of which $96,248,000 shall be funds identified in the fiscal year 2002 comprehensive annual financial report as the District of Columbia's fund balance funds), $1,568,734,000 shall be from Federal grant funds, $13,766,000 shall be from private funds, $910,904,000 shall be from other funds) and $109,500,000 from funds previously appropriated in this Act as Federal payments: Provided further, That an amount of $263,759,000 shall be for Intra-District funds: Provided further, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: Provided further, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act: Provided further, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2004, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $284,415,000 (including $206,825,000 from local funds, $57,440,000 from Federal funds, and $20,150,000 from other funds), in addition, $20,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment to the Chief Financial Officer of the District of Columbia'', and $1,100,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Foster Care Improvement in the District of Columbia'': Provided, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, $2,500 for the City Administrator, and $2,500 for the Office of the Chief Financial Officer shall be available from this appropriation for official purposes: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues: Provided further, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be $500,000: Provided further, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: Provided further, That an amount not to exceed $25,000 of the funds in the Antifraud Fund established pursuant to section 820 of the District of Columbia Procurement Practices Act of 1985, effective May 8, 1998 (D.C. Law 12–104; D.C. Official Code, sec. 2–308.20), is hereby made available, to remain available until expended, for the use of the Office of the Corporation Counsel of the District of Columbia in accordance with the laws establishing this fund.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $276,647,000 (including $53,336,000 from local funds, $91,077,000 from Federal funds, $125,000 from private funds, and $132,109,000 from other funds), of which $15,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11–134; D.C. Official Code, sec. 2–1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12–26; D.C. Official Code, sec. 2–1215.15 et seq.): Provided, That such funds are available for acquiring services provided by the General Services Administration: Provided further, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, $745,958,000 (including $716,715,000 from local funds, $10,290,000 from Federal funds, $9,000 from private funds, and $18,944,000 from other funds): Provided, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

(INCLUDING TRANSFERS OF FUNDS)

Public education system, including the development of national defense education programs, $1,157,841,000 (including $962,941,000 from local funds, $156,708,000 from Federal grant funds, $4,302,000 from private funds, and not to exceed $6,816,000, to remain available until expended, from the Medicaid and Special Education Reform Fund), in addition, $17,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Resident Tuition Support'' and $26,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for School Improvement in the District of Columbia'', to be allocated as follows:

(1) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—$870,135,000 (including $738,444,000 from local funds, $114,749,000 from Federal funds, $3,599,000 from private funds, and $6,527,000 from other funds shall be available for District of Columbia Public Schools: Provided, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: Provided further, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 2004, unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia that are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2004, an amount equal to 10 percent of the total amount provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2005: Provided further, That not to exceed $2,500 for the Superintendent of Schools shall be available from this appropriation for official purposes: Provided further, That the District of Columbia Public Schools shall submit to the Board of Education by January 1 and July 1 of each year a Schedule A showing all the current funded positions of the District of Columbia Public Schools, their compensation levels, and indicating whether the positions are encumbered: Provided further, That the Board of Education shall approve or disapprove each Schedule A within 30 days of its submission and provide the Council of the District of Columbia a copy of the Schedule A upon its approval.

(2) STATE EDUCATION OFFICE.—$38,752,000 (including $9,959,000 from local funds, $28,617,000 from Federal grant funds, and $176,000 from other funds), in addition, $17,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Resident Tuition Support'' and $26,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for School Improvement in the District of Columbia'' shall be available for the State Education Office: Provided, That of the amounts provided to the State Education Office, $500,000 from local funds shall remain available until June 30, 2005 for an audit of the student enrollment of each District of Columbia Public School and of each District of Columbia public charter school.

(3) DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOLS.—$137,531,000 from local funds shall be available for District of Columbia public charter schools: Provided, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year: Provided further, That if the entirety of this allocation has not been provided as payments to any public charter school currently in operation through the per pupil funding formula, the funds shall be available as follows: (1) the first $3,000,000 shall be deposited in the Credit Enhancement Revolving Fund established pursuant to section 603(e) of the Student Loan Marketing Association Reorganization Act of 1996, approved September 20, 1996 (Public Law 104–208; 110 Stat. 3009; 20 U.S.C. 1155(e)); and (2) the balance shall be for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995, approved November 19, 1997 (Public Law 105–100, section 172; D.C. Official Code, section 38–1804.03(b)(2)): Provided further, That of the amounts made available to District of Columbia public charter schools, $25,000 shall be made available to the Office of the Chief Financial

Officer as authorized by section 2403(b)(6) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(6)): Provided further, That $660,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2004, an amount equal to 25 percent of the total amount provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2005.

(4) UNIVERSITY OF THE DISTRICT OF COLUMBIA.—$80,660,000 (including $48,656,000 from local funds, $11,867,000 from Federal funds, $703,000 from private funds, and $19,434,000 from other funds) shall be available for the University of the District of Columbia: Provided, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2004, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2004, an amount equal to 10 percent of the total amount provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2005: Provided further, That not to exceed $2,500 for the President of the University of the District of Columbia shall be available from this appropriation for official purposes.

(5) DISTRICT OF COLUMBIA PUBLIC LIBRARIES.—$28,287,000 (including $26,750,000 from local funds, $1,000,000 from Federal funds, and $537,000 from other funds) shall be available for the District of Columbia Public Libraries: Provided, That not to exceed $2,000 for the Public Librarian shall be available from this appropriation for official purposes.

(6) COMMISSION ON THE ARTS AND HUMANITIES.—$2,476,000 (including $1,601,000 from local funds, $475,000 from Federal funds, and $400,000 from other funds) shall be available for the Commission on the Arts and Humanities.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

Human support services, $2,360,067,000 (including $1,030,223,000 from local funds, $1,247,945,000 from Federal funds, $9,330,000 from private funds, and $24,330,000 from other funds, of which $48,239,000, to remain available until expended, shall be available for deposit in the Medicaid and Special Education Reform Fund established pursuant to the Medicaid and Special Education Reform Fund Establishment Act of 2002, effective October 1, 2002 (D.C. Law 14–190; D.C. Official Code 4–204.51 et seq.)), in addition, $12,900,000 from funds previously appropriated in this Act under the heading ''Federal Payment to Foster Care Improvement in the District of Columbia'': Provided, That the funds deposited in the Medicaid and Special Education Reform Fund are allocated as follows: no more than $6,816,000 for District of Columbia Public Schools, no more than $18,744,000 for Child and Family Services, no more than $7,795,000 for the Department of Human Services, and no more than $21,700,000 for the Department of Mental Health: Provided further, That $27,959,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That $7,500,000 of this appropriation, to remain available until expended, shall be deposited in the Addiction Recovery Fund, established pursuant to section 5 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3004) and used exclusively for the purpose of the Drug Treatment Choice Program established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3003): Provided further, That no less than $2,000,000 of this appropriation shall be available exclusively for the purpose of funding the pilot substance abuse program for youth ages 14 through 21 years established pursuant to section 4212 of the Pilot Substance Abuse Program for Youth Act of 2001 (D.C. Law 14–28; D.C. Official Code, sec. 7–3101): Provided further, That $4,500,000 of this appropriation, to remain available until expended, shall be deposited in the Interim Disability Assistance Fund established pursuant to section 201 of the District of Columbia Public Assistance Act of 1982 (D.C. Law 4–101; D.C. Official Code, sec. 4–202.01), to be used exclusively for the Interim Disability Assistance program and the purposes for that program set forth in section 407 of the District of Columbia Public Assistance Act of 1982 (D.C. Law 13–252; D.C. Official Code, sec. 4–204.07): Provided further, That no less than $640,531 of this appropriation shall be available exclusively for the purpose of funding the Burial Assistance Program established by section 1802 of the Burial Assistance Program Reestablishment Act of 1999, effective October 20, 1999 (D.C. Law 13–38; D.C. Official Code, section 4–1001).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, $327,046,000 (including $308,028,000 from local funds, $5,274,000 from Federal funds, and $13,744,000 from other funds): Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

EMERGENCY AND CONTINGENCY RESERVE FUNDS

For the emergency reserve fund and the contingency reserve fund under section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a), such amounts from local funds as are necessary to meet the balance requirements for such funds under such section.

REPAYMENT OF LOANS AND INTEREST

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (D.C. Official Code, secs. 1–204.62, 1–204.75, and 1–204.90), $311,504,000 from local funds: Provided, That for equipment leases, the Mayor may finance $14,300,000 of equipment cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years.

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, $3,000,000 from local funds.

CERTIFICATES OF PARTICIPATION

For principal and interest payments on the District's Certificates of Participation, issued to finance the ground lease underlying the building located at One Judiciary Square, $4,911,000 from local funds.

SETTLEMENTS AND JUDGMENTS

For making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government, $22,522,000: Provided, That this appropriation shall not be construed as modifying or affecting the provisions of section 103 of this Act.

WILSON BUILDING

For expenses associated with the John A. Wilson Building, $3,704,000 from local funds.

WORKFORCE INVESTMENTS

For workforce investments, $22,308,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable.

NON-DEPARTMENTAL AGENCY

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, $19,639,000 (including $11,455,000 from local funds, and $8,184,000 from other funds) to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act: Provided, That $5,000,000 in local funds shall be available to meet contractual obligations, and $11,455,000 in local funds shall be for anticipated costs associated with the No Child Left Behind Act.

EMERGENCY PLANNING AND SECURITY COSTS

From funds previously appropriated in this Act under the heading ''Federal Payment for Emergency Planning and Security Costs in the District of Columbia'', $15,000,000.

TRANSPORTATION ASSISTANCE

From funds previously appropriated in this Act under the heading ''Federal Payment for Transportation Assistance'', $3,500,000.

PAY-AS-YOU-GO CAPITAL

For Pay-As-You-Go Capital funds in lieu of capital financing, $11,267,000, to be transferred to the Capital Fund, subject to the Criteria for Spending Pay-as-You-Go Funding Amendment Act of 2003, approved by the Council of the District of Columbia on 1st reading, May 6, 2003 (Title 25 of Bill 15–218). Pursuant to this Act, there are authorized to be transferred from Pay-As-You-Go Capital funds to other headings of this Act, as necessary to carry out the purposes of this Act.

TAX INCREMENT FINANCING PROGRAM

For a Tax Increment Financing Program, $1,940,000 from local funds.

CASH RESERVE

For the cumulative cash reserve established pursuant to section 202(j)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (Public Law 107–96; D.C. Official Code, section 47–392.02(j)(2)), $50,000,000 from local funds.

MEDICAID DISALLOWANCE

For making refunds associated with disallowed Medicaid funding an amount not to exceed $57,000,000 in local funds to remain available until expended: Provided, That funds are derived from a transfer from the funds identified in the fiscal year 2002 comprehensive annual financial report as the District of Columbia's Grants Disallowance balance.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

For operation of the Water and Sewer Authority, $259,095,000 from other funds, of which $18,692,000 shall be apportioned for repayment of loans and interest incurred for capital improvement projects ($18,094,000 and payable to the District's debt service fund).

For construction projects, $199,807,000, to be distributed as follows: $99,449,000 for the Blue

Plains Wastewater Treatment Plant, $16,739,000 for the sewer program, $42,047,000 for the combined sewer program, $42,047,000 for the Combined Sewer Overflow Long-Term Control Plan, $5,993,000 for the stormwater program, $24,431,000 for the water program, and $11,148,000 for the capital equipment program, in addition, $25,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment to the District of Columbia Water and Sewer Authority''.

WASHINGTON AQUEDUCT

For operation of the Washington Aqueduct, $55,553,000 from other funds.

STORMWATER PERMIT COMPLIANCE ENTERPRISE FUND

For operation of the Stormwater Permit Compliance Enterprise Fund, $3,501,000 from other funds.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3–172; D.C. Official Code, sec. 3–1301 et seq. and sec. 22–1716 et seq.), $242,755,000: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, $13,979,000 from local funds.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established pursuant to section 121 of the District of Columbia Retirement Reform Act of 1979 (D.C. Official Code, sec. 1–711), $13,895,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $69,742,000 from other funds.

NATIONAL CAPITAL REVITALIZATION CORPORATION

For the National Capital Revitalization Corporation, $7,849,000 from other funds.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of $1,004,796,000, of which $601,708,000 shall be from local funds, $46,014,000 from Highway Trust funds, $38,311,000 from the Rights-of-way funds, $218,880,000 from Federal funds, and a rescission of $99,884,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of $904,913,000, to remain available until expended, in addition, $5,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Capital Development in the District of Columbia'' and $6,000,000 from funds previously appropriated in this Act for the ''Anacostia Waterfront Initiative'': Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended.

TITLE III GENERAL PROVISIONS

SEC. 301. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 302. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 303. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Official Code, sec. 47–1812.11(c)(3)).

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. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 306. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, and salary are not available for inspection by the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 307. None of the Federal funds provided in this Act may be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 308. (a) None of the Federal funds provided in this Act may be used to carry out lobbying activities on any matter.

(b) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any issue.

SEC. 309. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2004, 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 available for obligation or expenditure for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of $1,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center,

unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 30 days in advance of the reprogramming.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 30 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriation.

SEC. 310. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 311. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–139; D.C. Official Code, sec. 1–601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.22(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 312. No later than 30 days after the end of the first quarter of fiscal year 2004, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2004 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2005. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 313. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Official Code, sec. 2–303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

SEC. 314. (a) In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: Provided, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not

specifically exempted from sequestration by such Act.

(b) For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, the term ''program, project, and activity'' shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: Provided, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 315. (a)(1) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 2004 if—

(A) the Mayor approves the acceptance and use of the gift or donation (except as provided in paragraph (2) of this subsection); and

(B) the entity uses the gift or donation to carry out its authorized functions or duties.

(2) The Council of the District of Columbia and the District of Columbia courts may accept and use gifts without prior approval by the Mayor.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term ''entity of the District of Columbia government'' includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 316. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).

SEC. 317. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 318. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, sec. 32–701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 319. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(1) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(2) the Council within 15 calendar days after receipt of the report submitted under paragraph (1) has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 320. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term ''official duties'' does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2004 an inventory, as of September 30, 2003, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 321. No officer or employee of the District of Columbia government (including any independent agency of the District of Columbia, but excluding the Office of the Chief Technology Officer, the Office of the Chief Financial Officer of the District of Columbia, and the Metropolitan Police Department) may enter into an agreement in excess of $2,500 for the procurement of goods or services on behalf of any entity of the District government until the officer or employee has conducted an analysis of how the procurement of the goods and services involved under the applicable regulations and procedures of the District government would differ from the procurement of the goods and services involved under the Federal supply schedule and other applicable regulations and procedures of the General Services Administration, including an analysis of any differences in the costs to be incurred and the time required to obtain the goods or services.

SEC. 322. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2004 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2–302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 323. (a) None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 324. (a) None of the Federal funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 325. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted. The Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by the 10th day after the end of each quarter a summary list showing each report, the due date, and the date submitted to the Committees.

SEC. 326. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 327. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a ''conscience clause'' which provides exceptions for religious beliefs and moral convictions.

SEC. 328. (a) If the Superior Court of the District of Columbia or the District of Columbia Court of Appeals does not make a payment described in subsection (b) prior to the expiration of the 45-day period which begins on the date the Court receives a completed voucher for a claim for the payment, interest shall be assessed against the amount of the payment which would otherwise be made to take into account the period which begins on the day after the expiration of such 45-day period and which ends on the day the Court makes the payment.

(b) A payment described in this subsection is—

(1) a payment authorized under section 11–2604 and section 11–2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act);

(2) a payment for counsel appointed in proceedings in the Family Court of the Superior

Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code; or

(3) a payment for counsel authorized under section 21–2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986).

(c) The chief judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals shall establish standards and criteria for determining whether vouchers submitted for claims for payments described in subsection (b) are complete, and shall publish and make such standards and criteria available to attorneys who practice before such Courts.

(d) Nothing in this section shall be construed to require the assessment of interest against any claim (or portion of any claim) which is denied by the Court involved.

(e) This section shall apply with respect to claims received by the Superior Court of the District of Columbia or the District of Columbia Court of Appeals during fiscal year 2003 and any subsequent fiscal year.

SEC. 329. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing the following issues—

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway house escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;

(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 330. No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.42), for all agencies of the District of Columbia government for fiscal year 2004 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

SEC. 331. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93–030–(PA) and 93–031–(PA).

SEC. 332. None of the Federal funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 333. In addition to any other authority to pay claims and judgments, any department, agency, or instrumentality of the District government may pay the settlement or judgment of a claim or lawsuit in an amount less than $10,000, in accordance with the Risk Management for Settlements and Judgments Amendment Act of 2000 (D.C. Law 13–172; D.C. Official Code, sec. 2–402).

SEC. 334. All funds from the Crime Victims Compensation Fund, established pursuant to section 16 of the Victims of Violent Crime Compensation Act of 1996 (D.C. Law 11–243; D.C. Official Code, sec. 4–514) (''Compensation Act''), that are designated for outreach activities pursuant to section 16(d)(2) of the Compensation Act shall be deposited in the Crime Victims Assistance Fund, established pursuant to section 16a of the Compensation Act, for the purpose of outreach activities, and shall remain available until expended.

SEC. 335. Notwithstanding any other law, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts in cases charging Driving Under the Influence and Driving While Impaired. The transferred funds shall remain available until expended and shall be used by the Office of the Corporation Counsel for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Control Act (D.C. Official Code, sec. 50–2201.05(b)(3)).

SEC. 336. From the local funds appropriated under this Act, any agency of the District government may transfer to the Office of Labor Relations and Collective Bargaining (OLRCB) such amounts as may be necessary to pay for representation by OLRCB in third-party cases, grievances, and dispute resolution, pursuant to an intra-District agreement with OLRCB. These amounts shall be available for use by OLRCB to reimburse the cost of providing the representation.

SEC. 337. None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends any action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of $4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

SEC. 338. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Act (IDEA) in the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia: Provided, That as part of the certification, the Chief Financial Officer of the District of Columbia require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification: Provided further, That the Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA: Provided further, That the Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

SEC. 339. Chapter 3 of title 16, District of Columbia Code, is amended by inserting at the end the following new section:

''SEC. 16–316. APPOINTMENT AND COMPENSATION OF COUNSEL; GUARDIAN AD LITEM.

''(a) When a petition for adoption has been filed and there has been no termination or relinquishment of parental rights with respect to the proposed adoptee or consent to the proposed adoption by a parent or guardian whose consent is required under D.C. Code section 16–304, the Court may appoint an attorney to represent such parent or guardian in the adoption proceeding if the individual is financially unable to obtain adequate representation.

''(b) The Court may appoint a guardian ad litem who is an attorney to represent the child in an adoption proceeding. The guardian ad litem shall in general be charged with the representation of the child's best interest.

''(c) An attorney appointed pursuant to subsection (a) or (b) of this section shall be compensated in accordance with D.C. Code section 16–2326.01, except that compensation in the adoption case shall be subject to the limitation set forth in D.C. Code section 16–2326.01(b)(2).''.

The table of sections for chapter 3 of title 16, District of Columbia Code, is amended by inserting at the end the following new item:

''Sec. 16–316. Appointment and compensation of counsel; guardian ad litem.''.

SEC. 340. (a) The amount appropriated by this Act as Other Type Funds may be increased no more than 25 percent to an account for unanticipated growth in revenue collections.

(b) CONDITIONS OF USE.—The District of Columbia may obligate or expend these amounts only in accordance with the following conditions:

(1) CERTIFICATION BY THE CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the District of Columbia shall certify that anticipated revenue collections support an increase in Other Type authority in the amount request.

(2) NOTICE REQUIREMENT.—The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and the Senate in writing 30 days in advance of any obligation or expenditure.

SEC. 341. (a) The amount appropriated by this Act may be increased by no more than $15,000,000 from funds identified in the comprehensive annual financial report as the District's fund balance.

(b) CONDITIONS ON USE.—The District of Columbia may obligate or expend these amounts only in accordance with the following conditions:

(1) CERTIFICATION BY THE CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District of Columbia's long-term financial, fiscal, and economic vitality.

(2) PURPOSE.—The District of Columbia may only use these funds for the following expenditures:

(A) Unanticipated one-time expenditures;
(B) To address potential deficits;
(C) Debt reduction;
(D) Unanticipated program needs; or
(E) To cover revenue shortfalls.

(3) LOCAL LAW.—The amounts shall be obligated or expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) RECEIVERSHIP.—The amounts may not be used to fund the agencies of the District of Columbia government under court-ordered receivership.

(5) NOTICE REQUIREMENT.—The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and the Senate in writing 30 days in advance of any obligation or expenditure.

(6) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section shall remain available until expended.

This Act may be cited as the ''District of Columbia Appropriations Act, 2004''.

The Presiding Officer appointed Mr. DEWINE, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. STEVENS, Ms. LANDRIEU, Mr. DURBIN, and Mr. INOUYE conferees on the part of the Senate.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:39 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

EXECUTIVE SESSION

NOMINATION OF MAJ. GEN. ROBERT T. CLARK TO BE LIEUTENANT GENERAL

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, pursuant to the order of November 14, I ask that the Senate now proceed to executive session to begin consideration of Executive Calendar No. 418, the nomination of Maj. Gen. Robert T. Clark to be Lieutenant General.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read the nomination of Maj. Gen. Robert T. Clark to be Lieutenant General.

Mr. WARNER. Mr. President, there are a number of Senators who desire to speak. I will just say a few words. To accommodate my distinguished colleague from Kentucky, who has been a valiant supporter of this nomination and very persistent over this long period of time, I will yield the floor. He then could be followed by the Senator from Massachusetts and then I would continue my remarks.

I wonder if I just might ask unanimous consent that the Senator from Virginia proceed for not to exceed 3 or 4 minutes, followed by the Senator from Kentucky for about 10 or 12 minutes, followed by the Senator from Massachusetts. How much time does my colleague desire?

Mr. KENNEDY. I think 40 minutes.

Mr. WARNER. Not to exceed a period of about 40 minutes for the Senator from Massachusetts.

Mr. KENNEDY. I think Senator DAYTON also had 15 minutes. I think there is a unanimous consent agreement for this; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I was not able to hear.

Mr. KENNEDY. I think there is a consent that has been agreed to whereby there are 2 hours equally divided, with 40 minutes for myself and 15 minutes for Senator DAYTON.

Mr. WARNER. The Senator is correct on that.

Mr. KENNEDY. I will not necessarily take all of that time.

Mr. WARNER. Mr. President, I thank my colleague.

Major General Clark is a highly qualified officer for promotion to the rank of lieutenant general. I have met with him several times. His proposed assignment by the Secretary of Defense is to be Commander of the Fifth U.S. Army.

He was first nominated for this position in the fall of 2002. He has appeared before the Senate Armed Services Committee in executive session on two separate occasions. On both occasions he conducted himself with deference and respect not only for the serious issues at hand but for all persons involved in this tragic sequence of facts which preceded his nomination.

He expressed great respect for the constitutionally-based advise and consent power and the responsibility of the Senate to look into this nomination with great thoroughness. Not surprisingly, General Clark has the full support of the Chief of Staff of the Army, General Schoomaker, and the civilian leadership of the Army for this promotion. Indeed, the Secretary of Defense personally, in a very respectful way, has talked to me about this nomination and his strong support for this nominee.

I will detail at length later on in the course of this debate the very thorough steps taken by the Senate Armed Services Committee. I commend my colleagues on the committee. There were unusual facts associated with this nomination involving tragic loss of life, a strong disciplinary action against those who brought about the direct harm to the victim who gave his life. In the course of that, I and other members of the committee took it upon ourselves to meet with the family members of the deceased victim in this particular case. I wish to commend them. They handled themselves in a manner of great distinction, given the depth of emotion on their part.

I also commend the former Vice Chief of the Army, General Keane. He took it upon himself time and time again, working with the distinguished Under Secretary of the Army, Les Brownlee, to repeatedly go back and reinvestigate certain aspects of this case, I hope to the satisfaction of all Members, certainly to this Senator and generally members of the committee.

Mr. President, I yield the floor to accommodate my colleague. I again thank him for his strong tenacity in supporting this nomination throughout.

Mr. BUNNING. Mr. President, I rise in strong support of MG Robert Clark to the rank of lieutenant general and commander of the Fifth Army. I first met General Clark over 5 years ago when he was commander of the 101st Airborne Division at Fort Campbell, KY. Since that time, I have known General Clark to be an honest man and an excellent soldier. The military communities in Kentucky and Tennessee surrounding Fort Campbell admire General Clark very much. He is well respected throughout the Army, and we should be grateful that we have soldiers like General Clark serving and protecting our Nation.

GEN Jack Keane, who commanded General Clark at Fort Campbell, said this about him:

> In my 37 years of service, I have never met an officer who is such a tower of character and integrity. His peers, subordinates, and superiors all respect and admire him for the truly special person that he is.

General Clark loves the Army and he loves his country. Some may even say that General Clark was born with the desire to serve his country in his blood. Both of his grandfathers served in both World War I and World War II. His father served for 31 years and fought in both World War II and the Korean conflict. His older brother served in Vietnam. One of his younger brothers is an Air Force colonel, and another brother is an Army lieutenant colonel on the front lines in Korea.

The Clark family has made many sacrifices so that future generations of Americans can live in peace. General Clark has given 33 years of his life in the armed service to this great Nation. He is a decorated soldier and has shed his own blood for our country. He led a platoon in Vietnam, commanded a brigade that was dropped deep into Iraq during Operation Desert Storm.

As commanding general of the 101st Screaming Eagles, he deployed himself, with his troops, all over the world, from Kuwait to El Salvador. Most recently, General Clark has been deputy commander of the Fifth Army and mobilized Guard and Reserves for homeland defense and Operation Iraqi Freedom. He has worn just about every hat the Army has to offer.

COL Mike Oates, who served under General Clark at Fort Campbell, said this about him:

> He spoke straight to the soldiers. He looked them in the eye and he set high standards for wearing our equipment and how we behaved. Discipline is what keeps good units effective and reliable. He enforced discipline and set the example himself.

I could go on and on about General Clark's distinguished career. But I need to address the tragic incident that has held up his nomination, which occurred while General Clark was at Fort Campbell. A murder occurred at Fort Campbell on July 5, 1999. PVT Barry Winchell was killed in a tragic event that none of us should ever forget. Private Winchell was murdered by a fellow soldier, who is serving—and deservedly so—a life sentence for this horrendous crime.

I do not wish to address the details of this horrible murder, but I do wish to

extend my thoughts and prayers to Private Winchell's family and friends. I have spoken with General Clark several times about this tragic incident. I know how sorry he is about the murder of Private Winchell, especially since it did happen on his post and under his leadership.

But it is important to note that after the incident—and as the general court martial convening authority—General Clark approved the maximum punishment for the convicted murderer.

I want to set the record straight. A small, yet loud minority has blamed General Clark for this tragic death. Nothing could be further from the truth.

A man who has given 33 years of his life to protect all Americans—all Americans—does not deserve to be treated this way. Army investigations and many interviews were conducted to dispel the misinformation over this incident. And the Army has recommended General Clark for nomination to lieutenant general and commander of the Fifth Army because he is the most qualified soldier for this job.

The President nominated General Clark for this post and important rank. It is important to note that the Senate Armed Services Committee approved his nomination.

I thank Committee Chairman WARNER and Ranking Member LEVIN for helping to move his nomination through the committee.

Mr. President, our military has an old saying: ''Not for self, but for country.''

Those who know General Clark in the Army and in the communities in which he has served all think of him when they hear this statement. General Clark is a man who has given his entire life not for self but for God and country. I thank him for it.

We should all be grateful to him for all the sacrifices he has made for our freedoms and our protections. I urge my colleagues to support the nomination of GEN Robert Clark. He deserves it and he has earned it.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, may I express appreciation to my colleague from Kentucky again for his taking long hours to personally look into this case in a very objective way and in reaching his conclusions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask the Chair to remind me when I have used 15 minutes.

The PRESIDING OFFICER. The Chair will do so.

Mr. KENNEDY. Mr. President, I oppose the nomination of Major General Clark to the rank of lieutenant general.

I agree that General Clark has a strong record as a soldier. He has received numerous decorations for his distinguished service and courage, and he has served in a number of leadership capacities during his more than 30 years in the Army.

I am concerned, however, about General Clark's performance as Commanding General at Fort Campbell, KY, at the time of the brutal murder of PVT Barry Winchell on the base in 1999.

There are few more respected units in the Army than the 101st Airborne Division at Fort Campbell. The ''Screaming Eagles,'' as the division is called, has a well-deserved reputation of professionalism, heroism, and outstanding performance. Yet, in the months leading up to the murder of Private Winchell, the command climate at Fort Campbell was seriously deficient. According to a report by the Army inspector general, Fort Campbell had command-wide low morale, and inadequate delivery of health care to soldiers and their families, and the leadership condoned widespread, leader-condoned underage drinking in the barracks.

There is compelling evidence that anti-gay harassment was pervasive at Fort Campbell during this period. The inspector general reported multiple examples of anti-gay graffiti, the use of anti-gray slurs in cadences by noncommissioned officers during training runs, and routine remarks and bantering that, in the inspector general's words, ''could be viewed as harassment.'' Outside groups have documented many instances of anti-gay harassment in the months leading up to the murder.

The inspector general also found that prior to the murder, there was no sustainment training at Fort Campbell on the proper implementation of the Homosexual Conduct Policy, known as ''Don't Ask, Don't Tell'' and that, as a result, ''most officers, NCOs, and soldiers at Fort Campbell lacked an understanding and working knowledge of the Policy.''

In his response to my questions, General Clark stated that he agrees with these findings, but that he was nevertheless not aware of even a single instance of anti-gay harassment before the murder.

On July 5, 1999, after enduring anti-gay harassment for many months, including harassment by members of his chain of command, Private Winchell was bludgeoned to death with a baseball bat by a fellow soldier in his barracks.

It seems clear that if General Clark had exercised his responsibility to deal with the serious anti-gay harassment that was prevalent at Fort Campbell during his 17 months of command leading up to the murder of Private Winchell, the murder would probably not have occurred.

Even more serious, however, was General Clark's performance at Fort Campbell in the days, weeks, and months following the murder. A brutal bias-motivated hate crime is an extraordinary event in any community, civilian or military, and it demands an extraordinary response from the community's leaders. Such a crime sends the poisonous message that some members of the community deserve to be victimized solely because of who they are. The potential for such a crime was magnified in this case because of the existing climate of anti-gay harassment at Fort Campbell, but the available evidence indicates that General Clark's response was not adequate with respect to his contacts with Private Winchell's family or his command responsibilities at Fort Campbell.

One factual issue which I have repeatedly asked the Army to resolve, without receiving a satisfactory response, is why General Clark did not meet with the parents of Private Barry Winchell, Patricia and Wally Kutteles, in the days following his murder.

Following such a brutal murder it is difficult to believe that such a meeting did not take place. Any responsible and compassionate commanding officer would want to meet with and console the parents of the murdered soldier, even if no request for such a meeting had formally been made.

I understand that during the 4 days immediately following the murder, General Clark was at the Walter Reed Army Medical Center in Washington with his wife, who was undergoing tests for a longstanding illness. It is understandable that General Clark had declined to meet with the parents for this reason, during that period and did not attend the memorial service for Private Winchell on July 9. But Clark did not meet with the parents in the days after his return to Fort Campbell from Walter Reed Hospital nor in the weeks and months that followed the Winchell murder. Instead, he states that he never received a request to meet with the parents, but he would gladly have met with then if he had received a request to do so.

Patricia Kutteles, Private Winchell's mother, has submitted a sworn affidavit stating that she and her husband traveled to Fort Campbell immediately after hearing about her son's murder. She was assigned an Army liaison officer, Lieutenant Colonel Stratis, as their point of contact with Fort Campbell and the Army. Two or three days after the murder, she made a request to Lieutenant Colonel Stratis to meet with General Clark to talk about her son's death. Lieutenant Colonel Stratis told her that General Clark was unable to meet with them.

There are three possible explanations for this dispute of fact: Ms. Kutteles may have submitted a false affidavit, General Clark may have given false information to the Committee, or General Clark was, for some reason, not informed by his staff about the parent's request.

Like others on the Armed Services Committee, I have met with the parents, and I was struck by their sincerity, their patriotism, and their continuing support for our Armed Forces in spite of the tragedy. I find it difficult to believe that they are lying or

mistaken when they say they asked for a meeting with General Clark.

Nevertheless, that appears to be the position of the Army inspector general, who states in his most recent memorandum, dated October 20, 2003, that the mother's statement in the affidavit is ''unfounded.'' The inspector general states that his office ''determined, after extensive interviews, none of the key staff members and other relevant witnesses recalled receiving or learning of such a request.''

I have seen several of the affidavits relied upon by the inspector general, and I found the statements relied on to be disturbingly non-responsive. These affidavits fail to resolve the serious factual dispute about whether the parents requested a meeting with General Clark, and it seems improper for the Army inspector general to suggest that no such request was made.

I believe that it is inappropriate for the Senate to act on this nomination until this issue is more satisfactorily resolved.

General Clark states that he was not aware of any instance of anti-gay harassment on the base before the murder. At the very least, the murder should have made painfully clear that anti-gay bias and anti-gay harassment were real and pressing problems at Fort Campbell, problems that demanded an immediate and effective response. Yet from the very start, and throughout the remainder of his command, General Clark and his office took patently ineffective steps to respond to these specific problems.

Two days after the murder, the Fort Campbell public affairs office issued a statement describing the incident as a ''physical altercation in a post barracks,'' insinuating that Winchell was partly responsible for his own death. In fact, Winchell was asleep in the barracks when he was attacked by his killer. General Clark stated that he probably learned about the false press statement 3 or 4 days later, following his return to Fort Campbell from the Walter Reed Army Medical Center. He said he did not instruct the public affairs office to retract the statement or issue a correction because ''comments by my command spokesperson regarding the case might well have influenced the investigation, or suggested that I had reached premature conclusions about the case, and might have influenced or tainted the deliberations of any soldier serving on a court martial-panel.''

It is important for a commanding officer not to make statements that might influence an investigation or court-martial. But it is well established in military law that a statement may be made to correct a false public statement, in order to avoid prejudice to the Government or the accused.

General Clark's explanation is doubly unconvincing in the light of the fact that the Fort Campbell public affairs office made a statement, 2 days after Clark returned to Fort Campbell, that there was ''no evidence'' that Private Winchell was killed because he was gay. This statement was clearly false, and it also raised a far more serious issue about whether the command at Fort Campbell was undermining the ability of the Government to prosecute the murder as a bias-motivated offense.

In fact, anti-gay harassment continued in the months following the murder.

The continuing anti-gay harassment at Fort Campbell was also accompanied by a sudden exodus of soldiers discharged for violations of the Homosexual Conduct Policy. In the 10 months after the murder, 120 soldiers were discharged from Fort Campbell under this policy, compared to only 6 such discharges from Fort Campbell during the same time period in the previous year. In all of 1999, there were 271 such discharges in the entire Army.

Instead of dealing directly with the problem of anti-gay harassment, General Clark chose to deny that any problem existed. In an op-ed article in the New York Times, a year after the murder, he stated that ''There is not, nor has there ever been during my times here, a climate of homophobia on post.''

In addition, he refused to meet with groups concerned about the welfare of gay soldiers, including a local gay community group, and the Servicemembers Legal Defense Network, a national organization.

Another of General Clark's most serious failure of leadership after the murder is the fact that, from all the evidence we have seen, he did not even once speak out against the specific problems of anti-gay harassment and anti-gay violence, or implement any training for the soldiers against it.

He did take general steps after the Winchell murder to address the quality of life for soldiers at Fort Campbell, and he reinforced existing programs on the need to treat all soldiers with ''dignity and respect.'' These measures were helpful, but hardly sufficient to address the specific problem of anti-gay harassment.

Private Winchell's murder was an anti-gay hate crime, and it called for, at the very least, a clear and unequivocal statement by Fort Campbell's commanding officer that violence against homosexuals is wrong. According to the record, no such statement was ever made.

General Clark has been asked repeatedly for instances in which he spoke publicly about anti-gay harassment. In his response last November 6, 2002 to written questions, he listed a number of speeches, press conferences, and publications, but none of these examples dealt with the specific problem of anti-gay harassment.

For example, General Clark wrote that on January 14, 2000:

> I published an article in the post newspaper, The Fort Campbell Courier, in which I emphasized the quality of soldiers serving at Fort Campbell, and outlines the initiatives we had undertaken to eliminate anti-gay harassment. I also reinforced our long-standing policy of treating all soldiers with dignity and respect.

In fact the article itself contains no information regarding efforts to address anti-gay harassment—not even a statement that such harassment is wrong. The article includes only two references to homosexuality.

First, General Clark writes that he has requested a review and assessment:

> to determine whether any member of this command violated the Department of Defense Homosexual Conduct Policy in any interaction with PFC Barry Winchell.

Second, he writes that he has:

> issued a policy on the handling of discharges for homosexual conduct to ensure these matters preserve the privacy and dignity of individual soldiers.

There is nothing in the article about anti-gay harassment. It deals only with the ''Don't Ask, Don't Tell'' policy.

The article refers only to General Clark's efforts to improve barracks conditions generally and his ''special emphasis'' on the dignity of all soldiers. Much of the article is defensive in tone; General Clark writes that the soldiers at Fort Campbell are the ''best we have ever had,'' that they are ''intolerant of abuse of anybody for any reason,'' and that ''leaders'' at Fort Campbell ''set the example through word and deed.'' He concludes with this sentence:

> This is the climate that exists at Fort Campbell, in contrast to which you have seen on TV and in the papers during these past few months.

This tone has characterized much of General Clark's public statements during the remainder of his command at Fort Campbell. On June 9, 2000, he said at a news conference that he objects:

> in the strongest terms to the way our soldiers, and the climate that embraces them, have been characterized.

At a Rotary Club meeting in March 2000—another event listed by General Clark as an example of his efforts to address anti-gay harassment—press reports, say that he:

> used the Rotary speech to lambaste the Kentucky New Era and other area newspapers

for printing an earlier story on his refusal to allow Servicemembers Legal Defense Network to place an advertisement in the post newspaper.

The ad had listed an anonymous hotline number for the Army inspector general's office and the telephone number for the organization. General Clark justified his decision to reject the ad on the ground that the inspector general's office had all the access it needed to soldiers on post. Newspaper reports of General Clark's Rotary Club speech contained no mention of any statement condemning anti-gay harassment.

I have repeatedly asked the Department to investigate this issue further, to find out whether in fact General Clark made any statements specifically addressing anti-gay harassment and anti-gay violence following the

Winchell murder. But the responses of the Department have been inadequate.

In response to similar questions by the parents, the inspector general stated:

During the 6 months following the murder, Major General Clark was personally involved in talking to Commanders at all levels about the anti-gay harassment.

There have been other cases where commanding officers have had to respond to tragedies, and they have done so in a variety of ways that demonstrate their leadership.

Many have drawn comparisons between General Clark's response in this case and General John Keane's response to the murder of African American civilians at Fort Bragg by racist soldiers. After these murders, General Keane held a 1-year anniversary remembrance and publicly offered his condolences. He met with the NAACP and the Anti-Defamation League to discuss the murders and consider ways to improve the racial climate.

General Keane offered very strong public statements against racism, and he implemented sensitivity training on the base. General Clark did none of this.

In all the services, discrimination against gays is codified in the ban on their service in military. In reporting anti-gay discrimination, soldiers face potential investigation, further harassment, and even discharge. This makes this population even more vulnerable to acts of harassment and violence, which makes it even more essential for leaders to act quickly and effectively in response to attacks on soldiers perceived to be gay.

In the recent controversy at the Air Force Academy, the senior leadership has been held accountable, from the Commandant of the Academy, to the Secretary of the Air Force. The Commandant of the Air Force Academy has been held responsible for the shortcomings of his subordinate commanders.

General Clark never held a single officer responsible for the command climate that led to the murder of Private Winchell. General Clark did not take responsibility for addressing the problem of anti-gay harassment at Fort Campbell after the murder. He should bear the ultimate responsibility for the climate that led to this tragedy and for not remedying that climate afterwards.

These are important questions that go to the heart of this officer's suitability for promotion to lieutenant general. The Senate deserves better information acting on such a controversial nomination.

I will just review for a few moments the difference between Fort Bragg and Fort Campbell. This is the difference, the comparison between General Keane's response to the murder of two African-American civilians and General Clark's response to the murder of PVT Barry Winchell. Fort Bragg:

In December 1995, three White Fort Bragg soldiers murdered two Black North Carolina civilians. Then Fort Bragg commanding general, LTG John Keane, currently General Keane, did the following actions after the murder:

At Fort Bragg, an on-base memorial service for ''remembrance and reconciliation'' was held 1 year after the murders. Lieutenant General Keane publicly communicated strong condolences.

On General Clark's actions after the murder, he declined to meet with the Winchell family, did not attend the Winchells' on-base memorial service held shortly following the murder, and did not hold any subsequent memorial events.

LTG John Keane invited the NAACP and the ADL to discuss the murders and work with the base to improve the racial climate. The local NAACP leader, James Florence, on the NAACP's relationship with Fort Bragg, said:

Since [the murders] we have had a liaison with Fort Bragg. We can talk with them almost any time we need.

General Clark declined to meet with the gay groups, declined to meet with the legal defense funds, and declined to meet with gay veterans organizations.

There is a dramatic difference between two commanding officers and how they dealt with the hate crimes. General Keane's response to the soldiers after the murders? LTG John Keane and the Army launched an aggressive program to ''weed skinheads and extremists out of the military.'' General Keane said:

We did not see this cancer coming. We missed the signs, symbols, and manifestations of extremism.

General Keane implemented sensitivity training at Fort Bragg regarding race relations. He said:

We've educated our people, in terms of what to look for and how to deal with it, and when we find soldiers whose attitudes and behavior are disruptive to good order and discipline of our unit, we are going to act.

General Clark publicly stated there was not a climate of homophobia on Fort Campbell, did not make any public statements or issue any written directives and never publicly communicated an appreciation of the harm caused by the antigay murder.

There are dramatic differences between how an officer dealt with this, who continues to serve with great distinction in our service, and the nominee.

Finally, here is the comparison between General Clark's response to the murder of PVT Barry Winchell and the response of the Air Force Academy leaders on sexual assaults. At the Air Force Academy during the period of 1993 through 2003, 60 cases of sexual assault were reported. Earlier this year, LTG John Dallager, the academy commandant from 2000 to 2003, lost his third star and retired as a major general because the Secretary of the Air Force determined he ''did not exercise the degree of leadership in this situation that we expect of our commanders.''

In September 2003, an independent panel commissioned to review the climate situation issued a report supporting the demotion of General Dallager and recommending an additional review to assess the actions taken by other leaders and holding individuals accountable.

On General Clark, in July 1999, two Fort Campbell soldiers murdered Barry Winchell because they believed him to be gay. This murder occurred on the base, in the barracks. This murder and additional problems with antigay harassment occurred during the tenure of Commander Clark and there has been no response.

My final point on the ultimate responsibility:

General Dallager is the Academy leader—[this was the finding]—bearing ultimate responsibility for the failure to adequately respond to sexual assault issues.

The Panel concurs with the decision . . . to retire General Dallager. . . .

Retire him.

On the ultimate responsibility, Army leadership doctrine states that commanders:

. . . have to answer for how their subordinates live and what they do after work.

That is in the field manual.

In a July 19, 2000 article in the New York Times, General Clark stated:

There is no, nor has there ever been during my times here, a climate of homophobia on post.

General Shinseki, on July 21, 2000, stated in a DoD News Briefing:

We take full responsibility for what happened to Private Winchell. . . .

There is General Shinseki taking responsibility. There is a general.

We take full responsibility for what happened to Private Winchell.

General Clark has failed to accept similar responsibility in this case and doesn't deserve the promotion.

On another matter, I believe there is some remaining time.

Mr. WARNER. Mr. President, I was going to reply to some of the points my colleague from Massachusetts made. As you well know, the General——

Mr. KENNEDY. May I reserve the remainder of my time? Is this on the Senator's time?

Mr. WARNER. Yes.

Mr. KENNEDY. Since I had the floor, I want this additional comment I would like to make on another subject, but I also want to respond to the questions of the Senator, so I will be glad to do whatever you would like.

Mr. WARNER. Mr. President, parliamentary question: We are on this nomination with 2 hours of debate and 1 hour each divided equally. I manage this side and Senator KENNEDY manages that side. If the Senator wishes to go on to another matter, I am not sure how the Senator wishes to handle this.

Mr. KENNEDY. Mr. President, it is not difficult, I think, since I have 40 minutes. I will use my remaining time and ask that my comments be inserted into another part of the RECORD so it doesn't interfere, and then I will be glad to answer any questions of the Senator.

Mr. WARNER. Mr. President, I wonder if the Senator from Massachusetts will accommodate the Senator from Virginia. I would like to make some comments with respect to his important remarks while they are fresh in the minds of the listeners. I think it is appropriate that I take a little time. Then, as far as I am concerned, we will both yield back our time and the Senator from Massachusetts can take some time on another matter, if he wishes. Is that helpful?

Mr. KENNEDY. How long did the Senator plan to speak?

Mr. WARNER. I will summarize my comments in about 5 or 6 minutes, at the conclusion of which we could both yield our time.

Mr. KENNEDY. Mr. President, if the Senator wants to address the Senate first, Senator DAYTON was yielded 15 minutes.

Mr. WARNER. That is under the order. I didn't realize he just walked in the Chamber. I am trying to do the best I can to accommodate everybody and manage the time efficiently. But I do desire at this point in time an opportunity to reply to my colleague from Massachusetts.

Mr. KENNEDY. Mr. President, I will yield the floor for that purpose and ask unanimous consent that at the conclusion I be recognized.

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

Mr. WARNER. Mr. President, the Senate had a comparison between how General Keane and General Clark handled problems within their respective commands. General Clark was the convening authority, and the tragedy that occurred to which the Senator referred, and which is the subject of some comments here today, came up through the military command, was handled by the military courts and the military authorities, and adjudicated. As the convening authority, I think he took some prudent steps to make certain that in no way could he be accused of command influence. The tragedy in General Keane's command was tried in the civilian courts, and as such he was not the convening authority. He then had the opportunity to do some things which I believe General Clark did not.

Out of this tragedy, there were lessons learned in the Army. I think some important new policy matters were put into the regulations. Otherwise, not all was lost in this tragic situation.

I ask unanimous consent to have printed in the RECORD the Army Inspector General's Report on Fort Campbell at the conclusion of my remarks. That is the first section of it that addresses a number of points that are raised by the Senator from Massachusetts.

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

(See exhibit 1.)

Mr. WARNER. Mr. President, I believe from reading this report—not in the words of the Senator from Massachusetts that no one was trying to stop these tragic situations—that it was generally a positive command climate. There were some isolated instances of harassment, sexual in nature. I concede that is in the RECORD. But the total quantity of these incidents, in my judgment, was not indicative of a breakdown in the command responsibilities under General Clark.

General Clark, as I said, came to the committee on two occasions and subjected himself quite willingly—indeed, under oath; I put him under oath at the second hearing—and he responded to the cross-examination, much of which the distinguished colleague from Massachusetts has raised today.

In conclusion, he has an extremely impressive record of military service stretching back to 1970. Much of that has been covered by my colleague from Kentucky.

Mind you, Fort Campbell is an installation that can at times host a daily population of 24,000 military personnel and over 200 company-sized units.

In July of 1999, this brutal murder was committed at Fort Campbell by an intoxicated 18-year-old soldier who used frightful force against PFC Barry Winchell. This resulted in his death, allegedly while he was sleeping. No one underestimates the seriousness of this crime.

Senator LEVIN and I met in May of this year with the parents of Private First Class Winchell. Like General Clark, we extended our sympathy and sorrow for their loss. The committee listened very closely to the assertions they made about a lack of appropriate treatment by General Clark and shortfalls in discipline and a secure environment at Fort Campbell during the time their son was stationed there.

At the conclusion of the meeting, Senator LEVIN and I asked Private First Class Winchell's parents to put the questions and concerns they had raised with us at that meeting in a letter, and we would obtain answers from the Department of Defense—specifically, the Department of the Army—and share those answers with them. That we did. The parents sent us a letter and Senator LEVIN and I forwarded these questions to the Department. In September, the Department responded to questions and expressed continued support for Major General Clark's nomination.

I ask unanimous consent that all of these matters be printed in the RECORD at the end of my statement.

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

(See exhibit 2.)

Mr. WARNER. Mr. President, not only the steps taken by the Armed Services Committee, together with my distinguished colleague Senator LEVIN, but indeed by the Department of the Army into other areas overall reflect, I think, that our committee carefully looked into this matter and that the Department of the Army was responsive to the questions raised by my colleagues.

Mr. President, MG Clark is highly qualified for promotion to the rank of lieutenant general assignment as Commander of the Fifth United States Army. He was first nominated for this position in the fall of 2002. He has appeared before the Senate Armed Services Committee in executive session on two separate occasions, and, on both occasions conducted himself with deferrence and respect for the members of the committee, and with appreciation for the Constitutionally-based advise and consent power—and responsibility—of the Senate. Not surprisingly, General Clark has the full support of the Chief of Staff of the Army, General Schoomaker, and the civilian leadership of the Army for this promotion.

General Clark has an extremely impressive record of military service stretching back to his commissioning in 1970. General Clark's military record includes combat service in Viet Nam for which he was awarded the Bronze Star with Combat ''V.'' He has served as a Battalion Commander and a Brigade Commander with the renowned ''Screaming Eagles'' of the 101st Airborne Division. In this capacity, he participated in Operations Desert Shield and Desert Storm. Major General Clark later served as Chief of Staff for the 101st Airborne Division, and from 1998 through 2000 as Commanding General of the 101st Airborne Division and Fort Campbell, KY.

Fort Campbell is an installation that can, at times, host a daily population of over 24,000 military personnel and over 200 company sized units. In July 1999, a brutal murder was committed at Fort Campbell by a drunken, 18-year-old soldier who bludgeoned Private First Class Barry Winchell to death in his sleep. This tragic and senseless crime was not foreseeable—not foreseeable by PFC Winchell's company commander and certainly not foreseeable by Major General Clark. General Clark capably and competently fulfilled his responsibility as General court-Martial convening authority in this murder trial and took steps necessary to ensure that the perpetrator of this crime and an accomplice were brought to justice. This was accomplished and the soldier who murdered PFC Winchell is serving a life sentence.

Senator LEVIN and I met in May of this year with the parents of PFC Winchell. We, like General Clark, extended our sympathy and sorrow for their loss. As leaders of the committee, we listened very closely to the assertions they made about a lack of appropriate treatment by General Clark, and shortfalls in discipline and a secure environment at Fort Campbell during the time their son was stationed there.

At the conclusion of our meeting, Senator LEVIN and I asked PFC Winchell's parents to put the questions and concerns that they had raised with us in a letter, and we would obtain answers from the department and share those answer with them. The parents did so, and we sent their questions to the department in June.

In late September, the department responded to the questions, and expressed continued support for Major General Clark's nomination. The Army undertook to conduct inquiries through the Army Inspector General in response to the questions raised by the parents, and, I believe, did respond fully to the issues that were raised.

In late September, Senator LEVIN and I forwarded the Department's response to PFC Winchell's parents inviting them to respond. They did so on October 8th. On October 10, Senator LEVIN and I forwarded their letter to the department together with additional questions from Senator KENNEDY requesting comment. We received a response from secretary Abell and Acting Secretary Brownlee on October 21st and, shortly thereafter, we conducted our second executive session.

The committee compiled a very thorough record about all the issues raised by Senator KENNEDY and others. I will not go into specific details, but it is important to note that the Army Inspector General conducted an investigation into the circumstances surrounding the July 1999 death of PFC Winchell after the court-martial was completed, and the IG found no basis to support accusations of dereliction of duty and failure of leadership by General Clark. To the contrary, the investigation found a positive command climate at Fort Campbell and refuted the assertions that Major General Clark should have done more or could have prevented this tragedy.

I am very concerned about ensuring accountability of military officers, and I have insisted at looking very closely at the actions of military leaders who are entrusted with command. I am satisfied that General Clark did not fail in his command responsibility and is fully deserving of promotion. I urge my colleagues to support this nomination.

EXHIBIT I

EXECUTIVE SUMMARY

Background

On 5 July 1999, Private First Class (PFC) Barry Winchell, D Company, 2nd Battalion, 502nd Infantry Regiment, Fort Campbell, Kentucky, was murdered by a fellow soldier. Following this incident, and amid claims that PFC Winchell was murdered because he was or was perceived to be a homosexual, allegations arose concerning the command climate at Fort Campbell particularly as it related to the command's enforcement of the Department of Defense (DOD) Homosexual Conduct Policy [hereinafter the Policy]. The Army pledged early on to assess the command climate and investigate the alleged violations of the Policy; however, to avoid interfering in the individual judicial proceedings underway, the Army could not begin that effort until the conclusion of the two courts-martial arising out of PFC Winchell's death.

On 10 January 2000, the Secretary of the Army (SA) directed that the Department of the Army Inspector General (DAIG) conduct an investigation into the facts and circumstances surrounding the death of PFC Winchell as it related to the Policy (enclosed) [hereinafter referred to as directive]. In addition, the DAIG was tasked to conduct an assessment of the command climate then existing in PFC Winchell's unit prior to his death and an overall assessment of the command climate existing at Fort Campbell prior to PFC Winchell's death, specifically as it related to the Policy. Finally, the DAIG was directed to provide an overall assessment of the Department of the Army's (DA) implementation of the Policy. The Fort Campbell assessment provided the initial data for the Army assessment of the Policy. The Army IG will continue to assess these issues as part of their continuing inspection program.

Task Force Composition, Training, and Methodology

A Task Force of 27 individuals was established to conduct the investigation and assessment in accordance with the directive. The Task Force was composed of inspectors general (IGs), one legal advisor, and subject matter experts. During early February, the Task Force received training from the subject matter experts in the areas of the Policy itself, Equal Opportunity (EO), interview techniques, and group dynamics. Further, the Task Force conducted mock individual interviews and group sensing sessions in order to validate the assessment strategy. Finally, at the request of the Servicemembers Legal Defense Network (SLDN), key leaders of the Task Force met with representatives of the SLDN to identify specific concerns of the organization. The SLDN is a national legal aid organization that assists soldiers affected by the Policy.

The scope of the assessment included the following: Interviews with the commanding general, 101st Airborne Division (Air Assault), both assistant division commanders who were occupying those positions in July 1999, and interviews with 47 brigade and battalion-level commanders from both divisional and nondivisional tenant units. In addition, the Task Force conducted 68 sensing sessions composed of soldiers randomly-selected by utilizing the last two digits of the social security number. In these sessions, 568 soldiers were interviewed and 1,385 command climate surveys were administered throughout Fort Campbell. With respect to the sensing sessions, it should be noted that all of these soldiers were assigned to Fort Campbell from the period of April 1999 through February 2000. In addition, participants who completed a command climate survey were informed that the responses would be anonymous.

In addition to interviews conducted on Fort Campbell, the investigation team conducted on-site interviews at Fort Benning and Fort Leonard Wood, as well as telephonic interviews with soldiers assigned to Korea, Fort Drum, Fort Knox, Fort Jackson and the United States Military Academy. Civilian members of the Fort Campbell community as well as former members of the Army were also interviewed by the investigation team.

Finally, Task Force members gathered relevant data through on-site inspections and additional periodic spot checks of unit recreation centers, public use areas, and barracks living areas. Finally, the Task Force secured information by directly observing on-post soldier events to include physical fitness training sessions.

History and Background of the Policy

On 29 January 1993, the President directed the Secretary of Defense (SecDef) to review DOD policy on homosexuals in the military. On 19 July 1993, the SecDef directed the following: applicants for military service as well as current servicemembers would not be asked nor required to reveal their sexual orientation; sexual orientation would not be a bar to entry into the service or continued service unless manifested by homosexual conduct; and commanders and investigating agencies would not initiate investigation solely to determine a member's sexual orientation. On 30 November 1993, Congress enacted 10 United States Code (USC), Section 654, policy concerning homosexuality in the armed forces.

ASSESSMENT RESULTS

Finding 1

Objective: Examine alleged violations of the DOD Homosexual Conduct Policy during the period preceding PFC Winchell's death.

Findings: 1. A preponderance of evidence indicated that two noncommissioned officers (NCOs) in PFC Winchell's chain of command and a fellow private (PVT) inquired into PFC Winchell's sexual orientation. In addition, at least one NCO referred to PFC Winchell as a ''faggot.''

2. In spite of this, however, the evidence gathered demonstrated that the chain of command was proactive in terminating the sporadic incidents of derogatory or offensive cadences during unit marches and physical training (PT) formations.

Summary: Evidence obtained from Fort Campbell indicated that in late May 1999 PFC Winchell asked an NCO from his unit, D Company, 2nd Battalion, 502nd Infantry Regiment, ''What would happen if a guy in the military was gay?'' In responding to that question, the NCO asked PFC Winchell if he was a homosexual. Testimony revealed that the NCO asked the question in an effort to offer assistance to PFC Winchell in getting professional guidance or assistance in addressing the issue.

Evidence gathered indicated that an NCO in PFC Winchell's unit referred to PFC Winchell as well as other members of the unit as ''faggots'' in describing those who failed to perform to his standards. On one occasion, the NCO referred to PFC Winchell as a ''faggot'' after PFC Winchell reported to work in what appeared to be an intoxicated state.

The preponderance of evidence demonstrated that PFC Winchell's chain of command did not condone demeaning or derogatory cadences made during the conduct of unit PT. In those instances where inappropriate remarks were made, company leaders made on-the-spot corrections.

Finding 2

Objective: Determine whether the local IG's office responded appropriately to any complaints of violations of the DOD Policy it may have received prior to PFC Winchell's death.

Finding: The Fort Campbell IG office properly responded to the only known complaint of a violation of the Policy prior to 5 July 1999 when they followed standard Army IG guidance by recommending PFC Winchell provide his commanders the opportunity to resolve his complaint prior to direct IG intervention with the command.

Summary: Immediately after the NCO called PFC Winchell a ''faggot,'' another NCO escorted PFC Winchell to the IG office to file a complaint. Upon being advised that he should provide his commander the first opportunity to address the issue, PFC Winchell was then escorted to his company commander. Evidence obtained indicated that the company commander counseled the NCO regarding his inappropriate remarks.

Finding 3

Objectives: 1. Conduct an overall assessment of the command climate existing at Fort Campbell prior to 5 July 1999, specifically as it relates to the application and enforcement of the DOD Policy.

2. Assess the degree to which PFC Winchell's chain of command understood the application and enforcement of the DOD Policy.

3. Conduct sensing sessions with randomly-selected members at Fort Campbell to determine the degree to which members felt they understood the Policy and the degree to which the Policy was being enforced.

4. Assess the command climate of D Company, 2nd Battalion, 502nd Infantry Regiment before 5 July 1999.

Findings: 1. Through sensing sessions, interviews, and surveys across Fort Campbell, it was determined that the command climate at Fort Campbell before 5 July 1999 was a positive environment with exceptions related to medical support, on- and off-post housing, after-duty-hours recreation, and shortages of personnel in authorized grades. Most soldiers indicated satisfaction with their mission, training, and organizational leadership.

2. With respect to the Policy, it was clear that the chain of command, from commanding general (CG) through company leaders, responded appropriately to matters with respect to enforcement of the Policy.

3. The specific assessment of D Company, 2nd Battalion, 502nd Infantry Regiment's command climate prior to 5 July 1999 was determined to be poor due primarily to leadership failure of a senior NCO, perceptions pertaining to underage drinking, and other factors beyond the direct control of the company, such as shortages of personnel in authorized grades and quality of life (QOL) issues.

Summary: In evaluating the overall command climate at Fort Campbell, personnel were asked to compare the command climate as it existed in February 2000 with the command climate the year prior. Overall, personnel indicated that the command climate was favorable. The majority of personnel questioned believed that the leadership at Fort Campbell was effective and concerned and treated personnel favorably. In addition, the majority of personnel questioned felt that the chain of command responded appropriately to issues presented to them. Finally, personnel believed that the leadership led by example.

QOL issues contributed to low morale at Fort Campbell. Specifically, issues relating to the conditions in the barracks, problems associated with medical care at Fort Campbell, and treatment received by soldiers from the civilian employees and individuals in the surrounding civilian communities were the major areas of concern to those questioned.

In general, the application and enforcement of the Policy did not appear to be a problem at Fort Campbell. Most leaders took appropriate action in instances where application of the Policy was warranted and appeared to be operating well within the confines of the Policy. Soldiers acknowledged, however, that the joking and bantering that had occurred prior to July 1999 on a regular basis could be viewed as harassment. Following training on the Policy and Consideration of Others (COO), soldiers are now more apt to reconsider uttering phrases that would likely be considered harassment.

However, the command climate of D Company, 2nd Battalion, 502nd Infantry Regiment, in the period prior to PFC Winchell's murder was poor. In addition to the QOL issues identified above, soldiers in PFC Winchell's unit believed that personnel shortages and underage drinking in the barracks to the poor command climate. The most significant factor contributing to the poor command climate, however, was the presence of an abusive NCO in a leadership position in the unit.

Finding 4

Objective: Review and resolve allegations by Private Second Class (PV2) Javier Torres and others of specific violations of the Policy.

Summary of Findings: The preponderance of evidence did not support PV2 Torres' allegation that he was personally harassed at Fort Campbell; however, evidence does support his allegation of routine personal harassment at Fort Benning and occasional personal harassment at Fort Knox. The preponderance of evidence supported PV2 Torres' allegations that during initial entry training (IET) at Fort Benning, one drill sergeant improperly addressed or referred to him as a homosexual, and another PVT provoked a fight with him by routinely taunting him and referring to him as a homosexual. The evidence also supported PV2 Torres' allegation that at Fort Campbell a senior NCO improperly used terms derogatory to homosexuals while trying to motivate male soldiers to perform to standard and two NCOs improperly used terms derogatory to homosexuals while singing cadences during a physical training run. It did not support his allegations that an NCO in his unit at Fort Campbell improperly used anti-homosexual language while conducting training on the Homosexual Conduct Policy, that a soldier at Fort Knox improperly inquired into his sexual orientation, and that an NCO in his unit at Fort Campbell improperly inquired into his sexual orientation.

The preponderance of evidence supported allegations that an NCO at Fort Campbell read a joke to soldiers that was demeaning to homosexuals; anti-homosexual graffiti was present on a wall of a latrine in a unit area, a latrine in a public recreation area, and a latrine in a work area at Fort Campbell; and a nongovernmental civilian, not a soldier, sent an e-mail containing anti-homosexual language to a former soldier at Fort Campbell. The preponderance of evidence did not support allegations that anti-homosexual comments made by soldiers at Fort Campbell were the ''norm,'' soldiers made threatening and inappropriate comments during training on the Policy, an e-mail with a sound wave file attached that contained language demeaning to homosexuals was circulated at Fort Campbell, and an NCO's chain of command improperly inquired into his sexual orientation.

Finding 5

Objectives: 1. Assess the degree to which PFC Winchell's chain of command understood the application and enforcement of the Policy.

2. Conduct an overall assessment of the command climate that existed then at Fort Campbell, specifically as it relates to the application, enforcement, and training conducted on the Homosexual Conduct Policy.

3. Conduct sensing sessions with randomly-selected military members at Fort Campbell to determine the degree to which members felt they understood the Policy and the degree to which they believed the Policy was being enforced.

Finding: There was no sustainment training conducted at Fort Campbell on the Policy before 5 July 1999 because there was no clearly articulated requirement on how often personnel were to be trained and who was to receive the training. The published guidance indicated: ''All officers and enlisted personnel of the Active Army and Reserve Components will receive briefings upon entry and periodically thereafter.'' Institutional training of personnel on the implementation and enforcement of the Policy was ineffective. Most officers, NCOs, and soldiers at Fort Campbell lacked an understanding and working knowledge of the Policy prior to 5 July 1999.

Summary: Nearly all soldiers, NCOs, and officers at Fort Campbell had received training on the Policy at some point in their military career. The training that was conducted, however, did not contribute meaningfully to an understanding or working knowledge of the Policy.

As a result, most personnel did not demonstrate a clear understanding of their responsibilities under the Policy and the standards contained within the Policy.

Finding 6

Objective: Assess whether current training materials adequately convey the substance of the Policy.

Findings: 1. Currently, commanders, leaders, and soldiers at Fort Campbell do not have a clear understanding of the Policy because training and informational materials do not adequately convey the substance of the Policy.

2. Training and informational guidance contain key words (Don't Ask, Don't Tell) that are not defined in doctrine.

Summary: Based on interviews with commanders, leaders, and soldiers, the results of the command climate survey, and a review of records and files at Fort Campbell, it was determined that the training provided on the Policy is not clearly written, not tailored to specific audiences based on rank and duty positions, fails to adequately convey the substance of the Policy, and is presented in a format which does not foster open and meaningful discussion on the issues.

Informational materials distributed to Army personnel, to include a Hot Topics pullout in Soldiers Magazine and a trifold pamphlet, suffered from the same defects according to personnel. The use of the terms ''Don't Ask'' and ''Don't Tell'' in the informational materials without providing definitions to explain these phrases created a large amount of anxiety and confusion.

Finding 7

Objective: Provide an overall assessment of the DA's implementation of the DOD Policy by assessing:

1. Whether the Policy is being fairly applied within units.

2. Whether there are currently any other perceived deficiencies in the Policy which preclude effective training, application, and enforcement of the Policy.

Findings: 1. The Policy is being fairly applied at Fort Campbell; however, the Policy with respect to discharges and substantial investigations is not being implemented as intended because commanders perceive an unacceptable risk to the unit and soldier by retaining soldiers who make admissions of homosexuality.

2. Commanders have difficulty in balancing their responsibility to maintain morale, unit cohesion, good order, and discipline while enforcing the Policy. They perceive that the current implementing instructions restrain their latitude to conduct inquiries and preclude them from exercising reasonable discretion in initiating inquiries.

3. AR 600–20 and subsequent Army guidance and messages regarding the reporting of harassment based on homosexual orientation do not adequately advise soldiers where or how to report harassment, and do not adequately advise commanders and agencies how to process these complaints.

Summary: The Task Force determined that the Policy was being fairly applied by commanders at Fort Campbell. The soldiers discharged under Chapter 15 were overall satisfied with their treatment during the process. The Fort Campbell commanders expressed concern in complying with the Policy. They believe it places them in a professional dilemma by requiring them to choose between retention of a soldier who declares a propensity for homosexual conduct and discharge when the truthfulness of his statement of homosexuality is suspect. They are

reluctant to conduct inquiries of the truthfulness of an admission because of the perceived risk to both the unit and the individual soldier.

Commanders stated to the Task Force that they had difficulty in balancing the enforcement of the Policy and the requirement to maintain morale, unit cohesion, good order, and discipline. Commanders expressed concerns that the Policy precludes them from conducting an inquiry when presented with credible information of behavior that demonstrates a soldier may have a propensity to engage in homosexual conduct. They believe the Policy precludes them from exercising reasonable discretion in determining the necessity to conduct an inquiry.

Information gathered by the Task Force determined that guidance on reporting harassment based on sexual orientation by soldiers and investigation into such harassment by leaders is unclear and confusing. Soldiers and leaders expressed frustration with knowing how and to whom to report harassment and how to handle incidents of this type of harassment. They expressed the belief that all harassment should be dealt with uniformly.

In summary commanders and leaders at all levels have an inherent responsibility for establishing a command climate that promotes good order and discipline essential to accomplishing the Army's mission. This responsibility includes promoting unit cohesion by identifying and eliminating harassment before it occurs or results in reports of violations of Army Standards.

EXHIBIT II

OFFICE OF THE UNDER SECRETARY
OF DEFENSE
Washington, DC, March 11, 2003.

Hon. JOHN W. WARNER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in reference to the nomination of Major General Robert T. Clark, United States Army, for appointment to the grade of lieutenant general and for assignment as Commanding General, Fifth United States Army that the President recently sent to the Senate. The President previously forwarded Major General Clark's nomination to the Senate on September 10, 2002; however, his nomination was not acted upon by the Senate prior to the Senate's sine die adjournment on November 22, 2002.

The Secretary of Defense considered reported information concerning Major General Clark. Major General Clark was in command of the 101st Airborne Division (Air Assault) and Fort Campbell at the time Private First Class Barry Winchell, a member of the command who was perceived to be homosexual, was murdered in his barracks by another member of the command. The Department of the Army Inspector General conducted an investigation into the facts and circumstances surrounding the death of Private First Class Winchell and the Inspector General conducted a command climate assessment at Fort Campbell. Neither the investigation nor the command climate assessment determined that Major General Clark was culpable. We previously provided you with a copy of the Department of the Army Inspector General's Report and this incident was addressed in detail at an Executive Session of the Senate Armed Services Committee in the 107th Congress.

I have attached a copy of the following information for your consideration: chronology of the actions and initiatives taken by the Department of Defense and the Department of the Army immediately following the death of Private First Class Winchell; a detailed chronology of published policies and actions of the dignity and respect for all soldiers directed by Major General Clark while serving as the Commanding General of the 101st Airborne Division and Fort Campbell; and a list of initiatives implemented by Major General Clark with respect to Homosexual Conduct Policy subsequent to the death of Private first Class Winchell.

After careful review of all information, the Secretary of Defense and the Secretary of the Army continued to support Major General Clark for appointment to the grade of lieutenant general and for assignment as Commanding General, Fifth United States Army. When considered in light of Major General Clark's past performance and future potential, we believe proceeding with the nomination is clearly in the best interest of the Department of the Army and the Department of Defense.

The Department appreciates your assistance in facilitating the confirmation of pending nominations.

Sincerely,

CHARLES S. ABELL,
Principal Deputy.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I thank the chairman of the committee, Senator WARNER, for all of his courtesies during the consideration of this nominee. I mentioned during my comments that we wanted to get additional answers. He has been extremely accommodating to those of us who raised the questions, as he always is as the chairman of the committee. I thank him for his fairness and ensuring that all of those who had concerns were able to conduct our concerns in accordance with the rules. I thank him very much for all of his courtesies.

Mr. WARNER. I thank my colleague.

Mr. KENNEDY. Senator BUNNING I know has a great interest in this. I thank him also.

I will address the Senate briefly on another matter which is of importance and consequence to the Senate. Then I will yield the time because I know my colleague wants to address this issue. Then we will be prepared to move to a vote.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 17 minutes of the 40 minutes.

Mr. KENNEDY. I thank the Chair. If you would let me know when 15 minutes have been used, I would appreciate it.

CONFERENCE REPORT ON MEDICARE

Mr. President, in a very few days we are going to be confronted with the conference report on Medicare. There is no more important issue facing the Congress and no more important issue to senior citizens and their families. Every senior citizen, every child of senior citizens, and every American should understand that this legislation must be defeated or drastically modified.

This conference report represents a right-wing agenda to privatize Medicare and to force senior citizens into HMOs and private insurance plans. The day it is implemented, it will make millions of seniors worse off than they are today. It is a cynical attempt to use the elderly and the disabled's need for affordable prescription drugs as a Trojan horse to destroy the program on which they have relied for 40 years.

It is important to understand how we got to this point.

First of all, we all understand that Medicare is one of the most beloved programs this Nation has ever enacted. It is depended upon by seniors all over this country. It is a program which is relied on and depended upon, and it works. If there is a failure in the Medicare Program, it was not to have included a prescription drug program in the legislation we passed.

That really is not what this current conference report is all about. This conference report is going to threaten Medicare in a very significant and important way—in a way that those of us who believe in Medicare should not permit.

We started in the Senate with a bipartisan bill to expand the prescription drug coverage. We also provided additional choices to private insurance coverage for senior citizens as the President requested. The bill was not a solution for the problems senior citizens face. It only provided about $400 billion between now and 2012 toward the prescription costs that will total $1.8 trillion. But it was a start, a downpayment. It was a fair and balanced compromise that protected Medicare and protected senior citizens. That is why it passed by 76 votes. Only 11 Democrats voted no; only 10 Republicans voted no.

The House took a different course. They passed a bill that was designed to radically alter Medicare, not for the benefit of the elderly. That is why it passed by a slim partisan majority of one vote. Now the conference has been hijacked by those who want to radically alter Medicare, privatize, to voucherize it, to force seniors into HMOs and into private insurance plans.

The bill the Senate will consider shortly is not a bill to provide a prescription drug benefit. It is a bill to carry out the right wing agenda and asks the elderly to swallow unprecedented changes in Medicare in return for a limited and inadequate small prescription drug benefit.

This conference report is so ill-conceived, not only does it put the whole Medicare Program at risk, it makes 9 million seniors, almost a quarter of the Medicare population, worse off than they are today. If this bill passes, the country will want to know: Where was their Senator when the Senate debated a bill that left a quarter of all seniors with worse drug coverage than before the bill passed? Where was their Senator when the Senate debated a so-called premium support demonstration that jacked up senior citizens' premiums—senior citizens who live on a fixed income, who have a median income of about $14,000—starting us down the road to the unraveling of Medicare? Where was their Senator when the Senate debated a bill that stacked the

deck against Medicare with a $12 billion slush fund for PPOs and much higher payments for HMOs than standard Medicare? Where was their Senator when the bill gave away $6 billion to health savings accounts that could jeopardize whole systems of health insurance?

On issue after issue after issue after issue, this report abandons the bipartisan Senate bill and capitulates to the partisan right-wing House bill. On some issues it is even to the right of what the House passed.

One of the most important of these destructive changes is a concept called premium support. It should really be called insurance company profit support or senior citizen coercion support. It replaces the stable, reliable, dependable premium that senior citizens pay for Medicare today with an unstable, unaffordable premium.

Under premium support, the administration's own estimates show the average Medicare premiums will initially jump 25 percent. That is the administration's estimate. Several years ago the estimate was a whopping 47 percent.

The truth is, no one really knows how high the Medicare premiums could rise. But rise they will. But we do know this. Over time, the increase will become higher and higher and higher and higher. That is just average premiums. Under premium support, how much you pay will depend on where one lives, and the amount could change dramatically from year to year. In Florida, you will pay $900 in Osceola and $2,000 if you live in Dade County. This chart demonstrates the price of premium support. This is not my estimate of what the premiums are going to be. This is the estimate of the Medicare actuaries. If you live in Dade County, you will pay $2,050; if you live in Osceola, you will pay $1,000, twice as much. Explain that to someone who has a house in Dade County when they find out their neighbor is paying half of what they are paying because of premium support. This is just the beginning.

Premium support is a vast social experiment using senior citizens as guinea pigs. If it works as the proponents intend, it will raise the premiums in Medicare dramatically and force senior citizens to join HMOs and PPOs to get prescription drugs. Why would anyone want to make the destructive changes to the Medicare Program that have served senior citizens so well for 40 years? The answer is a radical ideology. They say Medicare is bad. HMOs and PPOs are good.

There is no mystery here. We know what this is all about. The principal supporters of premium support are those people who are strongly opposed to Medicare. Many of our colleagues—our friends, but our political adversaries—want to see the Medicare system withdrawn or destroyed. What do they support? Premium support. What has been accepted in this conference? Premium support.

Some of the supporters of this program claim it's just a demonstration—nothing to get excited about. But it's not a demonstration. Under the terms of the demonstration, 7 million Americans could be forced into the program. Half the States have local areas where senior citizens could be forced to take part in this demonstration.

And that's just today. Tomorrow it will be 10 million senior citizens, or 20 million, or the whole country. People say we can change it. Change it? We will have to pass a law to change it. We will have to come to the Senate and the House of Representatives to change it.

This program will drain healthy seniors from Medicare and leave behind those who are sick and need help the most and it will send premiums for those who remain in traditional Medicare up through the roof. People who support this program make no secret what they want to do. They are on record as saying that Medicare is outdated and should be scrapped and seniors should be forced into HMOs. That is the same philosophy the President embraced when he initially proposed to give senior citizens a drug benefit only if they joined an HMO or PPO. Remember that? That is what this President wanted in March of this year. You only get the prescription drug program if you left the Medicare system and joined. We have carried that view forward with this program. I respect their opinions, but they should not use a prescription drug program as a Trojan horse to foist a bad idea on senior citizens.

The second way this program privatizes and voucherizes Medicare is by providing vast subsidies to the private sector at the expense of Medicare. Payments to the private sector will be 109 percent of the payments to Medicare for the private companies. If we want competition, can someone explain to me why we have to give 109 percent of what we are giving to Medicare to the private companies? Who is paying for those billions of dollars? It is the Medicare population. They have paid in. They are paying in. They are the ones who will pay the 109 percent.

I thought competition was supposed to be an even playing field. Not in this bill. Medicare is at one level; the HMOs are at 109 percent of Medicare. That is what they are getting. Medicare overpays by 16 percent because HMO enrollees are healthier. That is according to the CMS, the governmental institution that reviews these statistics. They find out seniors in private plans are 16 percent healthier than those in traditional Medicare. We ask for a level playing field yet they get 109 percent of what Medicare receives. And the people they are caring for are a good deal healthier than those in Medicare.

It does not stop there. The private plans have an additional $12 billion slush fund in case they are having difficulty. The 109 percent is not enough. They have a healthier population. But still, if you need some help, just come my way. We have $12 billion here with which to reach out and help you.

Medicare will pay at least 25 percent more to insurance companies for every senior citizen who joins an HMO and PPO than it would cost to care for the same person in Medicare. That is competition? That is competition, my friends? That is competition? That is what is in this conference report.

The Medicare trust fund, which today's retirees paid into and rely on, will be robbed to lavish billions of dollars on HMOs. That money, that 25 percent additional premium, ought to be invested right back in terms of the drug program for our seniors.

There is no truer indication of a nation's priorities than the investments it makes. The legislation the Senate considers today squanders that historic opportunity with reckless disregard for the Nation's health.

No provision in the bill reveals its warped priorities more clearly than the $12 billion slush fund to lure HMOs into Medicare.

Let's see if I have the reasoning behind this fund right. The supporters of this legislation are so convinced HMOs can provide health care to senior citizens more efficiently than Medicare that they have given HMOs a $12 billion payoff so they can compete. If they are so efficient, why do they need a handout?

I guess the sponsors believe the 9-percent reimbursement bonus HMOs already get is not enough, and that is on top of the 16 percent boost HMOs get from serving a healthier population. It is a good thing HMOs are so efficient or we might have to bleed Medicare completely dry to pay for them.

I wonder which HMO will be the lucky winner for the $12 billion Government handout. Will it be United Health Group, which made $1.4 billion last year? Or maybe the $12 billion lottery winner will be WellPoint, whose profits last year were $703 million, and whose CEO made $22.4 million. Perhaps the sponsors of this legislation think he needs a handout to make ends meet.

Anyone who reads the bill and comes to these provisions setting up this slush fund should be sickened at what they see. I challenge the supporters of this legislation to go to a senior center in their State, to go to the coffee shop on Main Street, to go to the churches and explain to the seniors they meet why their Medicare benefits are being stinted to give a $12 billion handout to HMOs. Explain to them why, with all the Medicare improvements that could be made with $12 billion, this bill decided the best use of that money is to inflate the profits of an HMO industry that is expected to make $6 billion this year.

This bill not only undermines Medicare, we find 6 million senior citizens and disabled people on Medicaid—the poorest of the poor—will be worse off. Their out-of-pocket payments will be raised, and their access to drugs could be curtailed.

Two to 3 million people with good employer retiree drug coverage will lose it, according to CBO estimates. This means almost a quarter of all Medicare beneficiaries will be worse off the day this bill passes.

This legislation reimposes the asset test, retreats from the positive things in the Senate bill. Not only does this agreement put all the dreadful things in that harm senior citizens, it unravels Medicare by reimposing the asset test. Three million people who were protected with the Senate bill are cut off in this program.

Finally, this conference puts in place an unrestricted program on health savings accounts, what used to be called medical savings accounts. They provide billions of new tax breaks for the healthy and the wealthy.

The PRESIDING OFFICER. The Senator has consumed all but 2 minutes.

Mr. KENNEDY. Worse, they encourage the healthy and wealthy to take high deductible policies, policies that require you to pay thousands of dollars before you get benefits. That is fine for people who can afford to put money into a tax-free savings account, but it is not good for ordinary working people.

We all know what is going on here. Not a word in this controversy is about prescription drugs for senior citizens. We have an agreement on that. In the Senate we had a solid bipartisan compromise that would have helped millions of seniors pay for the drugs they so desperately need. It was not full coverage, but it was a good start. That is not the issue here. We could send the bipartisan Senate bill to the White House this afternoon. President Bush could sign it before supper. But Republicans will not do that. They are holding prescription drug coverage hostage to their plan to destroy Medicare. They could never pass that plan on its own, so they are adding it to the prescription drug bill. Shame on them.

They say they have to destroy Medicare in order to save it. That is nonsense. There is nothing wrong with Medicare that Republicans can fix.

There is still time to do what is right. Let's stand up for senior citizens and for prescription drug coverage of Medicare. Let's stand up against this conference report and these shameful assaults on Medicare.

I will include at this point the organizations opposed to the Medicare conference report. Included are the National Committee to Preserve Social Security; the Alliance for Retired Americans; Families USA; Medicare Rights Center; Center for Medicare Advocacy; Consumers Union, National Senior Citizens Law Center; NETWORK: A Catholic Social Justice Lobby; American Public Health Association; the American Federation of State, County, and Municipal Employees; the American Federation of Teachers; NEA; Service Employees International Union; AFL–CIO; Older Women's League—there are close to 40 groups here. I ask unanimous consent that list be printed in the RECORD.

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

ORGANIZATIONS OPPOSED TO MEDICARE CONFERENCE REPORT

National committee to Preserve Social Security and Medicare
Alliance for Retired Americans
Families USA
US Action
Medicare Rights Center
Center for Medicare Advocacy
Consumers Union
National Health Law Program
National Senior Citizens Law Center
New York State Alliance for Retired Americans
Seniors Citizens Law, Albuquerque, NM
Legal Assistance to the Elderly, San Francisco, CA
Medicare Advocacy Project of Greater Boston Legal Services
Connecticut Association of Area Agencies on Aging
PRO Seniors Health Care Consumer Rights Project
NETWORK: A Catholic Social Justice Lobby
American Public Health Association
Arizona Center for Disability Law
Center for Health Care Rights, Los Angeles, CA
Florida Community Health Action Information Network
Florida Legal Services
Human Services Coalition of Miami Dade County
United Food and Commercial Workers
United Auto Workers
American Federation of State, County, and Municipal Employees
American Federation of Teachers
International Association of Fire Fighters
National Education Association
Service Employees International Union
AFL–CIO
International Association of Machinists and Aerospace Workers
International Longshore and Warehouse Union
Transport Workers Union of America
United Steelworkers of America
National Association of Area Agencies on Aging and the Center for Aging Policy
Older Women's League
National Taxpayers Union
United Food and Commercial Workers International Union.

The PRESIDING OFFICER (Mr. CRAPO). The Senator's time has expired.

Who yields time?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I think Senator CORNYN is seeking recognition.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I came to the floor because I know this is the time that was set aside to talk about the nomination of MG Robert Clark and his promotion to lieutenant general. I want to talk about that in just a moment.

I would say I have been interested in listening to the comments of the Senator from Massachusetts on another topic, on the Medicare conference report that will soon come to the floor. I must confess when that bill was first considered by this body, I could not support it. It was always my hope that once it went through the conference committee it would be improved. Indeed, from what I know of the bill so far, it has been. But I am so far undecided on how to vote on the conference report.

Mr. DAYTON. Mr. President, will the Senator yield for a question? What is the order of business before the Senate?

The PRESIDING OFFICER. Does the Senator from Texas yield for a question?

Mr. CORNYN. Mr. President, if I can conclude my remarks, then I would be glad to yield for a question in the time that remains.

My concern was about some of the comments made or the characterization made about the bill as being the product of some rightwing agenda. I do note in the announcement I heard, along with the American people, on Saturday, with the majority leader and Chairman CHUCK GRASSLEY of the Senate Finance Committee seated there, and also the Speaker of the House DENNY HASTERT, and others, including the ranking member of the Senate Finance Committee, MAX BAUCUS, who is a Democrat, and JOHN BREAUX, the Senator from Louisiana, another Democrat, who both have been leaders on Medicare reform, and what was announced was a bipartisan conference committee agreement on principles.

I do not know how this debate will ultimately pan out, but I do not believe the debate is advanced by, frankly, characterizing it as a product of some conspiracy or captive of some special interest agenda. I do know there are a lot of people who have been active on this issue on both sides of the aisle who support the bill. There are others who express concerns, and I want to explore those in the coming days in deciding how I might ultimately vote.

But, Mr. President, I came to the floor to talk about what I thought was the subject of the day and of this hour, which is the promotion of MG Robert Clark to lieutenant general.

First and foremost, I am well aware of some of the concerns that have been expressed about Major General Clark. I do not believe these concerns are based on any facts, but perhaps sentiment alone.

As we know, as the record reflects, in July 1999, a soldier named PFC Barry Winchell in General Clark's division was murdered by a fellow soldier at Fort Campbell in Kentucky. It is alleged this young man was murdered because he was perceived to be a homosexual.

I am sure I speak for the entire Senate when I say such inhumane acts deserve every condemnation. My heart, and that of others, goes out to the friends and family of Barry Winchell as they mourn his untimely demise.

The perpetrators of this heinous crime were, however, punished to the fullest extent of the law. As the convening authority for the court-martial,

Major General Clark played a key role in ensuring the people who savagely killed Private First Class Winchell were, in fact, brought to justice.

Unfortunately, there are those who want to unfairly blame major General Clark for this tragic death.

This is a very serious charge and should not be made lightly. I commend Chairman WARNER for his excellent work in making sure that this nomination has been carefully considered by the Senate Armed Services Committee. In fact, the committee spent more than a year looking into this tragic situation so that we could make sure we knew everything that could be known about the facts and circumstances involving Private First Class Winchell's death and any alleged culpability or responsibility that General Clark might bear for this tragedy.

This is what we learned. The Department of the Army inspector general conducted a full investigation into the facts and circumstances of the death of Private First Class Winchell at Major General Clark's request. The inspector general also conducted an overall command climate assessment at Fort Campbell which, as Chairman WARNER pointed out, consisted of, at the time, about 25,000 soldiers. Neither the investigation nor the command climate assessment found that Major General Clark was in any way responsible for this sad event. The record, in fact, demonstrates that General Clark conducted himself as a consummate professional, before and after the homicide. He adopted enhanced unit level training programs to ensure that Department of Defense policy was understood and implemented. And he repeatedly took personal action to communicate the requirements of the proper conduct and respect each soldier deserves.

The murder of Barry Winchell was indeed a tragedy. But it would be wrong to allow the career of a great American soldier to be ended over false allegations of some vague perceived shortcomings, when it is clear that he joins all of us in condemning the despicable actions of the drunken soldier that took Barry Winchell's life.

General Clark is more than worthy of promotion to lieutenant general. A San Antonio native, General Clark is a graduate of Texas Tech University and, like many brave Texans, he chose to serve his country in a military career. In fact, 1 out of every 10 men and women in uniform today is from the State of Texas, something of which we are immensely proud. What a career General Clark has had, spanning more than three decades on as many continents. Among other decorations, General Clark has received the Distinguished Service Medal, the Legion of Merit with four Oak Leaf Clusters, the Bronze Star for Valor, and the Bronze Star with Oak Leaf Cluster for his service.

To my mind, these achievements alone would merit his promotion. His record demonstrates that he has been a fine officer and, indeed, a great American patriot.

But there is also this: When Major General Clark was only First Lieutenant Clark, barely a year in uniform, he was serving in Vietnam as the first platoon leader of Company A, the Second Battalion of the 8th Calvary, the 1st Calvary Division. As his men were being extracted from hostile territory following a ground reconnaissance mission, they were engaged by enemy mortar fire, and the first two rounds caused heavy casualties, including Lieutenant Clark. A lesser soldier might have faltered in this situation, but even though he was wounded, Lieutenant Clark did not forget his foremost duty was to his own men. With total disregard for his personal safety, for his wounds, Lieutenant Clark put himself in the line of mortar fire again to carry wounded members of his company out of harm's way. He bravely moved from position to position, urging his men on until help arrived.

For his wounds, Lieutenant Clark was awarded the Purple Heart; for his valor, the Bronze Star.

General Clark has literally bled for his country. He has put his life on the line for his men and, yes, for us. He has dedicated himself to defending American freedoms against all enemies. In short, he is a true American patriot.

There are brave young men and women who today are doing exactly the same thing that General Clark was doing then: fighting for the cause of freedom and democracy in the ongoing war on terror. They are serving a just cause with bravery and dedication. I can think of no better leader than Major General Clark to serve as a living example to them, the next generation of American heroes.

I yield back any remaining time to the Senator from Alabama.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I think the Senator from Minnesota is to be recognized next. Is there a time agreement, to clarify my own understanding?

The PRESIDING OFFICER. The Senator from Alabama controls 29 minutes at this point. The minority controls almost 20 minutes.

Mr. SESSIONS. I thank the Chair.

The PRESIDING OFFICER. Under the agreement, 15 of the minority's 20 minutes is pledged to the Senator from Minnesota.

Mr. SESSIONS. I see. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I thank my colleague from Alabama. I had not intended to interrupt my distinguished colleague from Texas with whom I have traveled to Iraq and other places, but I misunderstood exactly where we were, given the subject matter that was being discussed. I apologize for the interruption. I will focus my remarks on this matter because it is one that is deserving of all the attention and concern of the Members of this body, and it is a very difficult matter, one that I wish we didn't have to confront in this Chamber and one I wish we didn't have to confront in this country.

But we do. We have a general with, generally, a very distinguished record, who now has been nominated for promotion to a very high office, commanding general of the Fifth Army. I have the greatest respect for the top echelon of our military command, as I have come to watch them, work with them, see their dedication and their professionalism and their compassion and concern for the men and women under their command. I regret having to raise these questions about any one of them.

But we have a dead American soldier on the other hand, a young man who lost his life while in uniform, while in the service of his country. He wasn't murdered in Iraq, as some of our brave soldiers are these days, or in Afghanistan, or somewhere else. He wasn't in a training accident, as some soldiers from Minnesota have been, in this country or abroad.

He was murdered. He was murdered by his own fellow American soldiers. His crime? His crime was that he was perceived and believed to be gay. I use that word ''crime'' rhetorically because I don't believe—I don't think Americans believe—that the sexual preference of an individual is a crime or should be a crime. It is not a crime in this country, punishable by death.

That can only happen in a country such as Iraq, or some country with a vicious totalitarian regime, where if someone is different in any way and somebody decides it is wrong, they are not only excluded by society or discriminated against, but they are harassed, tortured, or executed. But not in the United States of America.

However, it happened in this country at Fort Campbell, KY, in 1999, under General Clark's command. The soldiers who committed that terrible crime have been prosecuted, convicted, and are serving sentences.

The military system that allowed that atrocity to occur remains. It is a system which permitted a succession of actions—from taunts, humiliations, bullying, all sorts of prejudice, immoral and illegal behavior—to occur and recur. What happened as a consequence? Nothing. Nothing. Nothing, unfortunately, is what happens most of the time in the Army of this country today.

I am very proud of that Army in many respects, but I am not proud of an Army, or any other institution in this country, that permits discrimination against men and women because of their sexual preference. It is just that nothing usually happens when young women are assaulted and raped at the Air Force Academy—another matter we are dealing with on the Armed Services Committee. Their ''crime'' is that they are women.

Women have been admitted to the Air Force Academy for 30 years and have been flying side by side in airplanes, and taking all of the risks, and doing as well as their counterparts. But they are being assaulted and raped time after time. We have discovered that at the Air Force Academy, what has usually happened to the perpetrators of those crimes is very little or nothing.

These are impressionable young men and women in our Armed Forces—most of them. They are outstanding young men and women. I have interviewed a number of them. I think all of us have that responsibility. I find, when I have the opportunity to interview young men and women who are seeking admission to or nomination to our military academies, that they are really fine young men and women. There is a lot of competition to get in. When I have those interviews, when I am talking to other young men and women in uniform as I travel back and forth, I don't see these kinds of attitudes. I don't see young men and women who are looking at their fellow soldiers with this kind of prejudice or are considering these kinds of atrocities.

I just visited, in Minnesota over the weekend, a soldier who had one side of his arm shredded while serving in the Iraqi theater. He is recovering, thank God. He is a 21-year-old young man. He will recover. Another young Minnesotan lost most of his right leg, but he has great spirit and morale and he will live a great life.

But I have also visited parents of young men and women who are not recovering, who are not coming home because they paid the ultimate price for their service. I am on the Armed Services Committee, and when I look at the reports and the casualty figures of the brave young Americans who are being injured or wounded or maimed or who died in combat, I don't see categories of ''heterosexual'' or ''gay'' or ''lesbian'' and I don't see ''women'' or ''men.'' I see American soldiers, with the same kind of blood and bodies. All they are asking is an equal opportunity to serve their country, to risk their lives in the service of their country—even to die in the service of their country.

Amazingly enough, that is what these young women who are going to the Air Force Academy, and the young men and women entering the Armed Forces, who have a same-sex affinity—that is what they want, the same opportunity to fight, to be heroic, and even to die for their country.

That is what makes it so inexplicable and inexcusable and unforgivable when they are discriminated against, when they are treated the way they are, and when they have nowhere to turn.

So who is responsible? Who is accountable? Who loses a rank or a promotion or a star because a gay soldier was murdered under his command? General Clark's actions following that atrocity were questionable and, I would say, barely marginal. General Clark's actions in many other instances throughout his distinguished career have been extraordinary, heroic, and commendable, and I salute him for them. But it wasn't only his actions after this atrocity that were called into question; it was the actions and inaction before this occurred, which permitted in this environment of opportunities for repeated discrimination and harassment—for an NCO who was clearly unfit to be responsible for impressionable young men who, by his own conduct—or misconduct—showed them how not to treat a fellow soldier. That is what concerns me about this today.

I expect we will confirm General Clark's promotion. He will go on, and I hope he performs with great distinction, as I believe he will, as a commanding general of the 5th Army. But what is going to happen to all the other gay and lesbian soldiers out there? What kind of message are we sending to them? What kind of message do we send to the young women who get raped at the Air Force Academy when they see those who commit the terrible acts being promoted? What happens to a military's network of people when those promotions occur untouched by these kinds of atrocities, and eventually they are the military command or they are throughout the military command? How are we ever going to change what is going on in these situations if no one is held accountable, if there is no consequence for not doing what a commander should do—what in some instances they are required by law to do?

Regardless, common sense and decency and morality would tell them that anybody responsible for the lives of young people ought to keep people from ganging up or abusing or assaulting or picking on or murdering a fellow human being—not to mention a fellow soldier but a fellow American citizen. What happens to all of us when we let that go on?

As I said earlier, I think the U.S. military is outstanding in so many respects. It is that institution where, historically, young men and women have been able to come from all over the country, all different backgrounds; it is the great opportunity provider. It doesn't matter if your parents don't have any money or if you don't have much education; you can find yourself and become somebody and either serve with great distinction and make it a career or you can come back into society and do just as well. But you are not going to be that kind of person or that kind of professional or that kind of citizen or leader of this country if you are learning that is what happens, and that is OK, and those who do it get promoted, and those who are the victims suffer the terrible consequences.

That is a terribly destructive message to those individuals, a terribly destructive result to our Nation; and if this body means the concerns it expressed here—and I take them at good faith, but if we mean that, we are not going to be satisfied, and we should not be, by doing nothing other than promoting this general today.

We owe it to those men and women who have suffered, and those who have lost their lives through these atrocities, to take responsibility and tell the military, because we are the civilian command, that we are not going to do it; the buck stops here because no one else will, that we are going to insist on an armed forces that reflects, represents, and defends the standards of the basic decency the founding principles of this country that all men and women are created equal, they are endowed by their Creator with certain unalienable rights, that among them are life, liberty, and the pursuit of happiness, and the right to defend their country and be a patriot and not have somebody attacking them, humiliating them, or murdering them because of who they are.

That is the responsibility of leadership. That starts at the top, all the way down. It does not come from the bottom because that is where the base level is. It has to come from the top, from the commanders, from the civilians who are responsible for the system which they command and for those who are putting their lives, their hopes, their dreams, and their careers on the line. We have a lot of work to do.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I yield to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I thank the Senator from Alabama for yielding me a few minutes to discuss the nomination of GEN Robert Clark. I rise in support of the nomination. This is a very sensitive issue and it is one that needs to be dealt with in the right way by this body, and I think it has been.

The tragic death of PVT Barry Winchell should never have occurred, nor should any murder of that sort. The fact is, once it did occur, General Clark did everything within his power, first, to see that justice was done.

During the course of seeing that justice was done, there was a review of all of his procedures and regulations that were in place at Fort Campbell relative to the circumstances that led up to this unfortunate death. General Clark was somewhat handicapped by not being able to speak out openly and publicly after the death because he was a convening authority for the court-martial and therefore he could not really come forward and have a whole lot to say about the facts and circumstances leading up to the death of Private Winchell.

The fact is that he did make some changes in the procedures. He did make sure other regulations that had been in place prior to this unfortunate death

were enforced to an even greater degree than at the time this incident occurred.

It is truly a tragic situation that was of great concern to General Clark. I have had the opportunity to visit with him on a couple of different occasions, and one does not have to talk with him very long to see the concern in his eyes and in his heart relative to the death of Private Winchell.

I have also had the opportunity to meet with Private Winchell's parents. Again, we expressed to them deep sorrow and that our prayers go out to them. No matter what, we cannot bring their son back. I think we do need to make sure that as we move through this process we review what was done relative to the facts and circumstances leading up to this terrible murder and the facts and circumstances as they occurred after the death of Private Winchell.

As I reviewed this situation with General Clark and as I looked at the IG investigation that he ordered to take place after the death occurred and after the court-martial was completed, it is pretty obvious that he did everything he could have done to ensure that justice was done and that the atmosphere surrounding the troops at Fort Campbell was not poisoned and everybody was treated in an equal and fair manner.

It is very unfortunate that this situation had to occur, but at the same time it is very important that we make sure the procedures of the Army are followed very closely, and they were. It is very important that we make sure the sensitivity directed towards the family has taken place, and I believe it has. It has not been a perfect situation. General Clark, just as any officer or any individual in the corporate structure of any company in America, can look back on a situation as tragic as this and say that maybe they should have done something a little bit differently. The fact is, General Clark has always provided strong leadership during his career in the U.S. Army, and I think, once again, he exhibited strong leadership.

He did everything within his power to see that justice was done and to see that appropriate rules and regulations were put in place where they needed to be and that they were carried out to the highest degree. So I rise in support of GEN Clark, and I hope my colleagues will see fit to confirm his nomination.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I will vote against the nomination of Major General Robert T. Clark to the rank of Lieutenant General and to the position of Commander, United States Fifth Army.

Former President Harry Truman placed a sign on his desk in the Oval Office that read ''The Buck Stops Here.'' As Commander in Chief of the United States Armed Services, President Truman took full responsibility for every action that took place under his watch, at every rank. He never shifted blame, and he never accepted failure.

The same, cannot be said for General Clark.

In 1999, while General Clark was the commanding officer at Fort Campbell in Kentucky, Private First Class Barry Winchell was bludgeoned to death with a baseball bat by a fellow soldier who believed that Private Winchell was gay.

Did General Clark immediately accept responsibility for this terrible incident? Did he use his position of authority to stamp out the hateful and dangerous climate of anti-gay sentiment on the base?

No, he did not. Instead, General Clark claimed that there wasn't anything wrong on his base, denying that a vile culture of hate and harassment against gays had been pervasive for some time. But his sentiments do not jibe with reports from soldiers at the base detailing widespread harassment of soldiers thought to be homosexual and the ubiquitous presence of anti-gay graffiti.

The hazing and harassment that Private Winchell experienced before his murder were so pernicious that he bravely reported these episodes to the inspector general. This was a very risky course of action because it could have led to Private Winchell's discharge under the ''Don't Ask, Don't Tell'' policy.

On his departure from Fort Campbell, General Clark declared, ''There is not, nor has there ever been during my time here, a climate of homophobia on post.'' Tell that to Barry Winchell's family.

Apparently, the buck did not stop with General Clark. Instead of addressing the problem of homophobia at Fort Campbell, General Clark ignored it. Immediately after Private Winchell's murder, General Clark remained silent. He did not condemn anti-gay behavior on his base. He refused to meet with gay rights organizations who simply wanted to address the homophobia prevalent there. Surprisingly, General Clark failed to request the psychological and training services provided by the Army on how to address anti-gay harassment after the murder.

General Clark even delayed meeting with Private Winchell's family—despite their repeated entreaties—for almost 4 years after his murder. I find this particularly inexplicable and inexcusable.

The tragic murder of Private Winchell was not the only problem occurring at Fort Campbell. According to an Inspector General review of the base, Fort Campbell suffered from low morale, dilapidated barracks in need of repair, inadequate health care, and significant problems with underage drinking.

Today, the Senate faces the decision whether to promote General Clark to a very high-ranking position in the U.S. military. This position requires proven leadership skills.

I do not think that General Clark showed leadership at Fort Campbell, either before or after Private Winchell was murdered. He let Private Winchell down. He passed the buck.

I rise today to say that General Clark's lack of leadership at Fort Campbell dissuade me from supporting his promotion. I believe this promotion sends the wrong message about what we expect from our commanding officers, especially now in a time of war.

I served in the Army Signal Corps in Europe during World War II. Over the course of my three years of service, I never encountered a superior officer who avoided responsibility for his soldiers or their actions. Each and every one of my commanding officers expected and demanded the best from me; their leadership, in turn, inspired me to do my best.

I don't think Major General Clark inspires such dedication and service. Therefore, I will vote against this nomination and urge my colleagues to do the same.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, I oppose the nomination of MG Robert T. Clark to the rank of lieutenant general. The facts surrounding his conduct, prior to and after the murder of PFC Barry Winchell, raise questions about his leadership and judgment that have not been answered to my satisfaction.

The Inspector General of the Army, while clearing Major General Clark of fostering a hostile environment at Fort Campbell, raised serious issues about discipline at the base. Furthermore, some of Major General Clark's actions after Private Winchell's murder raise legitimate questions about his fitness for higher command. In the immediate aftermath of the murder, for example, a public affairs officer at the base issued a statement describing the murder as a ''physical altercation in a post barracks.'' This gross distortion of the facts was not corrected. In fact, Private Winchell had been asleep at the time his murderer struck, goaded on by other soldiers. General Clark took no steps to correct this claim in public, and later defended his action as in keeping with his mandate not to prejudice the ongoing investigation. Regrettably, these actions leave the appearance of a general officer who did not want the negative attention that would result from a hate crime under his command.

General Officers are rightly held to incredibly high standards of conduct, and they should be. The men and women under their command are worthy of no less. In this case, Major General Clark appears to have come up short, as evidenced by the Senate Armed Services Committee's failure to pass this nomination unanimously. Instead of clarity, the nomination process has left us with lingering concerns

about the general's fitness for higher command.

Mr. President, I recognize and appreciate Major General Clark's long service in the Armed Forces of our country. But there remain too many legitimate questions about his leadership and judgment stemming from his command of the 101st Airborne at the time of Private Winchell's murder to confirm his nomination to the rank of lieutenant general.●

Mr. FEINGOLD. Mr. President, I want to speak today on the nomination for promotion of Major General Robert T. Clark and the broader issue of the Department of Defense's ''Don't Ask, Don't Tell'' policy. The unusually lengthy and controversial nomination of General Clark has, once again, brought attention to the failure of the Pentagon's policy towards gay servicemembers. It is high time that we stop this policy of codified discrimination against our brave servicemen and women who happen to be gay.

I fear that this policy may have been a contributing factor in the June 5, 1999, brutal murder of PVT Barry Winchell at Fort Campbell, KY, a base commanded by General Clark. I will not reiterate the facts of that case at this time, but I will say that there are strong indications that there was a pervasive and hostile anti-gay climate at Fort Campbell both before and after the tragic murder of Private Winchell and that the base leadership, including General Clark, appears to have done little, if anything, to address it.

Mr. President, the ''Don't Ask, Don't Tell'' policy has failed. It failed to give Private Winchell useful options to combat the harassment he faced during the months prior to his murder. It failed to force General Clark to take effective action to eliminate the anti-gay climate at Fort Campbell. And it continues to fail to stop the discrimination and harassment faced by our brave gay servicemembers.

I want to take this opportunity to urge the Pentagon to begin instituting changes to its policy towards gay servicemembers. The Pentagon should provide, at a minimum, a safe place for gay and lesbian servicemembers to report harassment without fear that they will be kicked out of the military because of their sexual orientation. This modest step would be one small way to honor the memory of Private Winchell and to prevent what happened to him from ever happening again.

Mr. AKAKA. Mr. President, I rise today to discuss the promotion of Major General Robert T. Clark to Lieutenant General in the United States Army, which is pending consideration by the Senate. On October 23, 2003, the Senate Committee on Armed Services voted to favorably report General Clark's promotion for consideration by the Senate. The vote taken was a voice vote. I asked, however, that the record reflect that had there been a recorded vote, I would have voted to oppose this promotion.

I have deep respect and admiration for our military leaders. I have often said that anyone who achieves the rank of a flag or general officer deserves a Ph.D. for the amount of education and training they have successfully completed to attain such distinguished rank. In my capacity as a member of the Senate Armed Services Committee and the co-chair of the Senate Army Caucus, I have had the privilege of working with many of our Nation's most respected military leaders.

This has been a difficult decision for me. General Clark's promotion has been pending consideration before the Senate Armed Services Committee for 14 months. Military promotions are usually very simple to consider, and are rarely troublesome or controversial. I normally do not hear from my constituency about a military promotion. In this case, however, I was contacted by a number of my constituents asking me to oppose General Clark's promotion, primarily for his actions as Commanding General of the 101st Airborne Division at Fort Campbell, KY, during a difficult time when PFC Barry Winchell was murdered. For this reason, I made sure that I had the opportunity to review as much material as possible pertaining to General Clark's career as well as the facts surrounding the incident that led to Private First Class Winchell's death.

In March 2003, I joined some of my colleagues in writing a letter to the distinguished chairman and ranking member of the Senate Armed Services Committee to request information regarding the specific actions General Clark took to eliminate the climate of anti-gay harassment that existed at Fort Campbell prior to Private First Class Winchell's death; statements General Clark made regarding antigay harassment to officers, soldiers, and the public; the policies he promulgated addressing this issue; other steps he took to prevent further acts of violence and harassment; how he handled the Winchell case in comparison to other serious crimes occurring during his command; and his response, as well as the response of those around him, to requests by Private First Class Winchell's family to meet with him. I reviewed the information provided and participated in an executive session held on October 23, 2003, where General Clark was available for questions.

After reviewing all of the information and listening to General Clark's testimony, I decided that I could not support his promotion to Lieutenant General. General Clark's professional record reflects many distinguished accomplishments as a military officer. However, I remain concerned about his lack of what I believe to be leadership qualities that are necessary for today's military leaders.

I remain disturbed by General Clark's continued reliance on lack of knowledge regarding misconduct and antigay harassment on post as a rationale for his lack of action. General Clark had been in command of the 101st Airborne Division for 17 months prior to Private First Class Winchell's death. While I understand a commanding general is not responsible for the individual actions of his soldiers, I firmly believe that a commanding general sets the tone on an installation and can influence what his soldiers believe will be considered ''acceptable'' behavior. I was disturbed to learn of repeated instances of underage drinking and harassment, and of the assessment, particularly of those soldiers in Private First Class Winchell's unit, of the command climate prior to Private First Class Winchell's death.

I am also disturbed by General Clark's refusal to take responsibility for the incident. During his tenure as Chief of Staff of the Army, General Eric Shinseki took responsibility for what happened to Private First Class Winchell. This reflects official Army policy that commanders at all levels are accountable for everything their command does or fails to do. As a leader, I believe General Clark should have taken responsibility or expressed accountability for the circumstances that led to this Private First Class Winchell's death.

I believe his failure to initiate a meeting with Private First Class Winchell's family reflects poor leadership on his part. His position as convening authority did not prevent him from meeting with the parents of a soldier murdered on an installation over which he had command and responsibility.

Again, General Clark's record reflects that he has led a distinguished military career. However, I do not believe his actions as the Commanding General of the 101st Airborne Division at Fort Campbell, KY, warrant his promotion to lieutenant general.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this has been a very difficult nomination for the Armed Services Committee. We worked very hard for over a year to ensure that we developed all of the relevant facts so we could make an informed decision. In fact, this nomination was first sent to the Congress in the last session and then was resubmitted in this session.

It is totally appropriate that we took this time to address Major General Clark's nomination because PFC Barry Winchell, a soldier serving in Major General Clark's command at Fort Campbell, was brutally murdered by another soldier on July 5, 1999.

Fort Campbell is a large fort, perhaps 25,000 soldiers and 46,000 family members. We were interested in what the command climate was in Major General Clark's command, particularly as it related to his command's implementation of the Department's Homosexual Conduct Policy. We also wanted to see how Major General Clark responded after the murder.

Major General Clark asked the Army Inspector General to conduct an investigation into the facts and circumstances surrounding the murder. The Inspector General conducted this investigation and also conducted an assessment of the command climate at Fort Campbell before the murder. Neither the investigation nor the command climate assessment found fault with Major General Clark's actions.

We met with Private Winchell's family. We met with Major General Clark on a number of occasions. We met with other Army officials. We met with organizations and individuals who expressed an interest in this nomination. So under Senator WARNER's leadership, I believe our committee has given full consideration to the nomination of Major General Clark and the events which have to be described as tragic when considering that nomination.

Every one of us, every human being who has knowledge of this incident, is appalled by the brutal murder of a soldier sleeping in his barracks. So we first wanted to look at, again, the incident and the command climate prior to the incident. We reviewed the Inspector General's report that stated that the chain of command, from commanding general through company leaders, responded appropriately to matters with respect to the enforcement of the Department of Defense Homosexual Conduct Policy.

One of the most difficult issues had to do with the statement of Private Winchell's family that they requested a personal meeting with Major General Clark and they did not receive a personal meeting with him.

I think the fact they made that request and it was not complied with was troubling to all of us. As we dug into it, we heard from Major General Clark on this issue. He looked us in the eye and said he never received such a request. That is not to say the request was not made. It is to say that I think most of us believed Major General Clark when he said that request was never forwarded to him. What happened to that request we do not know, and perhaps nobody ever will know.

Major General Clark wrote a letter to the family. It was a heartfelt letter. It was a personal letter about the death of their son. It was really a comment that he added in that letter, which was so personal and so heartfelt, that I think persuaded many of us that he was honest when he stated that there is no way he would not respond to a family request to meet with him.

As others have mentioned, he did have a special responsibility, as the General Court-Martial Convening Authority, to ensure that justice was done and to make sure nothing he would say would in any way create error in that trial.

The murderer, PVT Calvin Glover, was convicted of premeditated murder by the court-martial, which was convened by Major General Clark. He was sentenced to life imprisonment and, of course, a dishonorable discharge from the Army.

Another soldier was convicted of obstruction of justice and making a false official statement and was sentenced to 12½ years confinement and a dishonorable discharge.

To the extent that justice can ever be done following a brutal murder of this kind, justice was done in this case. It was done under the leadership of the convening authority, Major General Clark himself.

In the end, looking at all the information that is available to us, I have concluded that we should confirm this nomination and that it would be appropriate, at the same time, however, for us to take note of the events relative to this nomination, that surround it, the length of time this nomination has been pending, all of the inquiries and investigations and reports which have been requested, and hope all of this together will lead to a different environment and a different climate in the unit at issue here.

I ask for 1 additional minute, if I may, from the majority side.

Mr. SESSIONS. The Senator can use that from the majority side.

The PRESIDING OFFICER. The Senator may proceed.

Mr. LEVIN. I thank the Senator from Alabama.

When we put all this together, the hope, I think of all of us, is that the kind of climate that apparently existed in that one unit, not known to Major General Clark—because the Inspector General found no evidence that he knew of any anti-gay climate in any of the units, much less that one. There was in one unit some anti-gay rhetoric which was immediately responded to by the captain in charge of that unit. As a matter of fact, the captain counseled the noncommissioned officer and put an immediate end to the anti-gay rhetoric. But that was not known to General Clark.

For all these reasons, I think it is appropriate we now confirm this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator LEVIN for his work on this issue, and Senator WARNER's efforts as the Chairman. Senator LEVIN and Senator WARNER have discussed this issue in great detail. Senator WARNER made clear he was going to take it seriously, that there would be ample opportunity to evaluate any questions that arose from these terrible circumstances, and that the facts would come out in committee and could be presented forthwith. That was done. We heard all of the information that was available. I would note it is time, now, to move forward.

General Clark's nomination has been blocked for over a year now. He is a tremendously fine soldier. He is just not the one responsible here. I also should note that I do not think it is correct, as some have indicated, to say people who fail to adhere to DOD policy get promoted. General Clark acted aggressively against the climate and the actions that resulted in this terrible murder.

In July of 1999, PVT Barry Winchell was a member of the 502nd Infantry Regiment. He was murdered in his bed as a result of a brutal assault by another private, Calvin Glover. Before his death, Winchell had been perceived as gay by Private Glover, and Winchell had complained about harassment in his company to superiors.

I should note that there was evidence that a platoon sergeant had made insensitive comments about gays, but there was not evidence of command responsibility in any way.

In December of 1999, after General Clark convened a court-martial and a trial was conducted, Private Glover was convicted of first-degree premeditated murder and was given life without parole. The individual who was Private Glover's buddy, who obstructed the investigation to some degree, was given 12 years in jail, without parole. He is serving that time.

I know the Chair has served as a lawyer and clerk to Federal judges. General Clark was the convening authority for a general court-martial. He was the superior commander on a base with 25,000 people. We don't hold mayors responsible for crimes committed in cities of 25,000 people. In fact, one of the highest crime rates in America is among young males. So, what we have in this base is 25,000 of the kind of people who, statistically, tend to get in more fights, more crimes, and commit more murders than anyone else. That is my experience as a prosecutor. I think it is indisputable that that is so.

So it is therefore not possible for a commander of a 25,000 member facility or military base, to guarantee there are not going to be fights and even murders every now and then. Heaven help us, that they occur, and the climate ought to be set in a way that minimizes that. But we cannot hold every commander responsible for this, any more than we could hold a mayor responsible for a crime in a city.

But what I wish to emphasize is that the general took a number of direct and dramatic actions to indicate, without question, his revulsion with this murder. He clearly stated his expectation that everybody at Fort Campbell would be treated with respect, and that violence of this kind is unacceptable. He was quite strong on that point.

However, he was unfairly criticized for his actions following Private Winchell's death. The criticism was unfair because in the military he is the convening authority of the courts-martial. He is required, by the Uniformed Code of Military Justice to appoint the members of the courts-martial, and he has a duty to remain objective. He has to be careful that he does not conduct himself in a way that prejudices the officers he appointed to try the case.

I served as a JAG officer for several years in the Army Reserve. I know a commanding officer has to be careful because the defense lawyers who defend soldiers charged with crimes can raise, as a defense to the trial, that the commander had prejudiced the trial by suggesting the defendant was guilty before he had a trial.

General Clark testified at his confirmation hearing in the Senate Armed Services Committee that he was in regular contact with his staff judge advocate, his lawyer, advising him what he could say, and what he could not say.

Some say he should have been more open, he should have been more condemning of this act, he should have been more aggressive. It is clear that he was acting under the legal direction of his staff judge advocate. In fact, his staff judge advocate was talking to the staff judge advocate in Washington, for the Department of Defense. They exhausted every means possible to ensure they conducted themselves properly. They sought to ensure that the trial was fairly conducted, and that if a conviction was obtained, as it was obtained, that the verdict would be upheld. It was.

I just would want to say this is not so easy, as some would suggest, for him to be really aggressive in making comments about this while a trial is ongoing.

Complaints were certainly made about his conduct afterwards. General Clark, who, if you met him, you would understand, is a man of great integrity, great decency, who wants to do the right thing, said: Look, I haven't done anything wrong. I believe I have conducted myself properly. But I am personally requesting that the inspector general investigate my conduct and my actions. I want him to come in here and investigate this situation to see if I have done anything wrong.

Of course, the IG did investigate. An IG team conducted a thorough investigation into the command climate at Fort Campbell. This investigation of the command climate found that Major General Clark was not culpable of any dereliction or failure of leadership, as has been alleged by the Service Members Legal Defense Network—SLDN—which is an advocacy group that works to protect and ensure that homosexual soldiers are treated fairly in the military, as they have every right to be treated. They have a right to insist that they be treated fairly.

It is important that people know about this crime. I know it is important that people understand how civilization sometimes is fragile and people lose discipline and do things they should never ever do.

To highlight the problem that occurred at Fort Campbell, and to take action by an advocacy group—or by the military or any decent people, or for the Senate to take action in order to ensure that these kinds of things don't happen in future—there is no illegitimacy in that.

One of the things that has troubled me in recent years in this Senate is that we feed on information that is sometimes provided by people who have an agenda. As a result of that, sometimes people are unfairly treated. Everybody deserves fair treatment. This private who was murdered did not deserve what happened to him. I also believe General Clark does not deserve some of the charges that have been made against him.

A few other points; This group claims that Major General Clark failed to follow Federal law. There is no proof of that. There is no proof that he failed to provide a safe environment for soldiers—in fact, that claim has been rejected. They claim that he failed to exhibit leadership necessary for further promotion. After the inspector general's reviews were done, that proved not to be so.

The allegations were that Major General Clark had allowed ''significant levels of antigay harassment under [his] command,'' and that it allowed a command climate in which ''antigay harassment flourished''; it was just not true. The Army IG found sporadic incidents of the use of derogatory or offensive cadence calls used during marching. These problems which were quickly corrected and stopped as soon as they were discovered. It was clearly established that anti-homosexual comments were not the norm at Fort Campbell.

There were allegations that there was anti-gay graffiti in the public areas around Fort Campbell. The Army inspector general found one latrine at a unit level and one in a public recreation center at Fort Campbell which had anti-gay comments on them. This was clearly not a common thing on the base. I suspect you would find these comments in some of the public bathrooms in cities and gas stations around America. It is wrong, but I don't think that should be something the general would be found to be responsible for. There is simply no way that he can protect against each and every one of those incidents.

It was suggested that he took no action to deal with this problem. I have one document dated November 30, 1999—not long after the incident that occurred—in which General Clark wrote his command. He sent it to everyone basically on the base.

Distribution A, Subject: Respect for all soldiers.

Paragraph 1: The soldiers in the Army today are the best we have ever had.

I certainly agree with that.

They are volunteers who merit our respect and they deserve to be treated with dignity in a climate of safety and security.

He goes on to say:

We can and will do more to ensure that our soldiers are treated with dignity and respect. I accordingly direct that:

All soldiers be briefed on the Department of Defense homosexual conduct policy upon their formal in-processing at Fort Campbell. When they come to the base.

They are to be instructed on this policy of treating people fairly and with respect. As an interim measure, every soldier at Fort Campbell will receive the briefing.

In addition, he goes on to note:

This instruction will also include the contents of the 25 October 1999 memorandum from the commanding general . . .

And another memorandum—both of which reiterate the roles and responsibilities of commanders regarding investigations of threats against or harassment of soldiers on the basis of alleged homosexuality;

Subparagraph (c): All leaders will vigorously police the contents of run and march cadences.

They have always been a little bit risque over the years. But the general took aggressive action here.

They will monitor the march and run cadences to ensure that they are positive and devoid of profanity or phrases demeaning to others.

Subparagraph (d): All leaders will vigorously police the content of training briefings, classes, lectures, and all other instructions to ensure that they are devoid of profanity or phrases demeaning to others.

Subparagraph (3) Respect for others is an Army value and a cornerstone of the discipline and esprit de corps and all soldiers will be treated with dignity and respect. Accordingly, I expect all Department of Defense, Department of Army and Fort Campbell directives, policies and regulations to be enforced by our leaders and adhered to by our soldiers.

Robert C. Clark, General.

This is a superb soldier who served his country well in Vietnam. He was awarded the Purple Heart and the Bronze Star. He was wounded in combat and refused to be evacuated until he got others out of the line of fire.

He commanded the 3rd Brigade of the 101st Airborne Division, that great division, during Operation Desert Storm, the last Gulf War. His proven leadership is clear.

In the U.S. Army Command and General Staff College ''Story of the Third Army in Desert Storm'' by Richard Swain, published in 1994, he talks about how General Clark's brigade moved rapidly to cut off the retreat of the Iraqi soldiers, facing tremendously bad weather. It was so bad that motorcycle troops were mired down, but he moved successfully anyway and seized the objective before other units were able to.

He is a proven commander in combat. He is a proven commander in the peacetime Army. He has taken strong action to see that this kind of activity never happens again.

I am proud of him. I am also proud to note that he obtained his master's degree at Auburn University, one of America's great universities. I had occasion to meet him and to see him testify at hearings. I thought he did a superb job. There was little doubt of his sincerity in this matter and his capability to be a great general officer.

I thank the President.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The majority leader.

Mr. FRIST. Mr. President, I congratulate my colleague, Senator SESSIONS, for really putting into perspective a lot of the things that have been said on the floor, allegations from the past but also with respect for this man who is a true hero, an American hero.

I rise to support his elevation to the second highest rank in the U.S. Army as Commander of U.S. Army at Fort Sam Houston.

On October 3, 1971, this young man, Robert E. Clark, first platoon leader of Company A, 2nd Battalion, 8th Calvary of the 1st Calvary Division, became an American hero.

It was approximately 10:30 a.m. in Bin Tuy Province of the Republic of Vietnam. Company A was completing a reconnaissance mission. As they were being extracted, the men came under heavy fire. The first two enemy mortar rounds struck hard and inflicted heavy causalities, including wounding First Lieutenant Clark. At that time, at great risk to his own personal safety, and ignoring or at least putting aside his own wounds, First Lieutenant Clark ran forward into enemy fire to carry his fellow wounded soldiers back to cover.

Throughout the battle he pressed on, moving from position to position to direct his men to lay down a constant stream of smoke in order to mark their position for the helicopters flying overhead. The record clearly shows First Lieutenant Clark's heroic action ensured the success of Company A's mission. For his bravery in combat and service in Vietnam, First Lieutenant Clark received a Purple Heart. He received two Bronze Stars, one for valor and one for service.

In a letter of recommendation on behalf of Robert Clark, the company commander wrote:

[First Lt Clark's] display of personal bravery and devotion to duty were in keeping with the highest traditions of the military service, and reflect great credit upon himself, his unit, and the United States Army.

I ask unanimous consent to have printed in the RECORD a copy of the letter of recommendation which lays out these events.

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

On 3 October 1971, first Lieutenant Robert T. Clark, First Platoon Leader Of Company (A), 2d Battalion (Airmobile), 8th Cavalry, 1st Cavalry Division, distinguished himself by heroic action while on ground combat operations against a hostile enemy force in Binh Tuy Province, Republic of Vietnam. At approximately 1030 hours Company (A) were being extracted after completing a ground reconnaissance mission, when they were engaged by an undetermined size enemy force, receiving enemy mortar fire. The first two mortar rounds that impacted took a heavy toll of friendly casualties including 1LT Clark. Although wounded 1LT Clark with total disregard for his own personal safety and his wounds exposed himself to enemy mortar fire as he moved forward and assist in carrying the other wounded members under cover. 1LT Clark continued to expose himself as he moved from position to position directing his men to lay down a constant screen of smoke marking their position to Gunships giving them fire support. 1LT Clark's heroic action and aggressiveness, enabled the mission to be a complete success. Resulting in one (1) enemy soldier killed. His display of personal bravery and devotion to duty were in keeping with the highest traditions of the military service, and reflect great credit upon himself, his unit, and the United States Army.

Mr. FRIST. In a career spanning over 30 years, Robert T. Clark has consistently displayed that uncommon courage and leadership he showed on the battlefield in Vietnam. He has earned the admiration of all who know him, both in and outside of military life.

GEN John Wickham, former Chief of Staff of the Army, says General Clark is unequivocally ''one of the most ethical, moral, people-oriented and charismatic leaders I have ever known.''

GEN John Keane, whom the senior Senator from Massachusetts so lavishly praised earlier, calls General Clark ''a man of great character. He's a great moral force and a very compassionate person. Simply stated, he's one of the Army's very best leaders.'' Those are the words of GEN John Keane.

It is my honor to rise today and support this nomination of this outstanding soldier. General Clark has earned numerous awards for his extraordinary service, including four awards of the Legion of Merit, three Bronze Stars, the Purple Heart medal, four meritorious service medals, the Air Medal, the Air Commendation Medal, and numerous campaign service medals for service in Vietnam as well as Saudi Arabia.

He has earned the Combat Infantryman's Badge, the Army Staff Identification Badge, the Parachutist Badge, the Ranger Tab, and the Air Assault Badge.

During the gulf war, then Colonel Clark commanded the 3rd Brigade of the 101st Airborne. Under his leadership, the 3rd Brigade conducted one of the longest and largest airborne assaults in military history. More than 2,000 men, 50 transport vehicles, artillery, and tons of fuel and ammunition were air lifted at that time 50 miles into Iraq. Land vehicles took another 2,000 troops deep into the Iraqi territory. All of this was accomplished in 72 hours without a single American casualty. Only two Iraqi soldiers were killed and 22 wounded.

With characteristic modesty, General Clark explained the brigade's truly remarkable success by saying, ''We're the first guys who ask them to lay down their weapons, and they did. It just took a little convincing.''

General Clark earned a Bronze Star for his command of the historic mission.

In 1998, General Clark was elevated to command the 101st Airborne Division at Fort Campbell, which, as most know, is situated on the border of Tennessee and Kentucky. Indeed, Fort Campbell can be described as a small to midsize city comprised of about 50,000 soldiers and civilians. There are homes, schools, a fire department. It is a complex and diverse place. During his 2-year tenure there—and I had the opportunity to meet with General Clark there on several occasions—General Clark's reputation for fairness and compassion extended way beyond the base, well into the surrounding community.

In February of 2000, the Clarksville City Council unanimously passed a resolution praising General Clark for his ''high standards of leadership, professionalism, and integrity.''

The Montgomery County Board of Commissioners passed a similar resolution declaring:

General Clark's reputation in the local communities is highly acknowledged as one of the brightest, caring, and respected division commanders that the Army has sent to our local community.

Indeed, General Clark is one of the finest men in uniform today. He currently serves as the acting commander of the 5th U.S. Army at Fort Sam Houston. I should mention, as an aside, that General Clark requested the assignment so that he could take care of his wife who suffers from a chronic illness.

General Clark's peers call him ''a soldier's soldier.'' He descends from two generations of Clark men who have served the Army with dedication and honor.

And thus, as I began a few minutes ago, I close by saying, and I do call him a true hero. I strongly support his elevation to the second highest rank in the U.S. Army.

The PRESIDING OFFICER. All time having expired, the question is, Will the Senate advise and consent to the nomination of Maj. Gen. Robert T. Clark to be Lieutenant General.

The nomination was confirmed.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, Executive Calendar items 436 through 450, and all remaining nominations on the Secretary's desk, are confirmed; the motions to reconsider are tabled, the President is notified, and the Senate returns to legislative session.

The nominations considered and confirmed en bloc are as follows:

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

Maj. Gen. Victor E. Renuart, Jr., 0278

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. Richard V. Reynolds, 1156

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

Maj. Gen. Charles L. Johnson, II, 5967

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

Maj. Gen. Garry R. Trexler

IN THE ARMY

The following named officer for appointment in the United States Army 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

Maj. Gen. Franklin L. Hagenbeck, 3956

The following named officer for appointment in the United States Army 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

Maj. Gen. Joseph L. Yakovac, Jr., 1273

The following named officer for appointment in the United States Army 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

Maj. Gen. David W. Barno, 9794

IN THE MARINE CORPS

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Tony L. Corwin, 1553
Brig. Gen. Jon A. Gallinetti, 2221
Brig. Gen. Thomas L. Moore, Jr., 2551

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. John R. Allen, 5762
Col. Thomas L. Conant, 7621
Col. Joseph V. Medina, 2528
Col. Robert E. Schmidle, Jr., 7820
Col. Thomas D. Waldhauser, 4358

The following named officer for appointment in the United States Marine Corps Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. James L. Williams, 0353

IN THE NAVY

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Michael K. Loose, 4983
Rear Adm. (lh) Robert L. Phillips, 7293

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Robert Ryland Percy, III, 4869

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Henry B. Tomlin, III, 9713

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Gary A. Engle, 3896

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Mark A. Hugel, 9650

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN360 Air Force nominations (51) beginning Martin Alexis, and ending Jerome E. Wizda, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 2003.

PN973 Air Force nomination of Michael A. Mansueto, which was received by the Senate and appeared in the Congressional Record of September 25, 2003.

PN974 Air Force nomination of Ronald C. Danielson, which was received by the Senate and appeared in the Congressional Record of September 25, 2003.

PN1047 Air Force nomination of Jefferson L. Severs, which was received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1048 Air Force nomination of Lesa M. Wagner, which was received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1049 Air Force nomination of Francis D. Pombar, which was received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1050 Air Force nomination of Alan T. Parmater, which was received by the Senate and appeared in the Congressional Record of October 16, 2003.

IN THE ARMY

PN1036 Army nomination of Michael P. Vinlove, which was received by the Senate and appeared in the Congressional Record of October 14, 2003.

PN1037 Army nominations (8) beginning Donald A. Black, and ending Debra S. Long, which nominations were received by the Senate and appeared in the Congressional Record of October 14, 2003.

PN1053 Army nominations (29) beginning Douglas B. Ashby, and ending Terry C. Washam, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1054 Army nominations (62) beginning Curtis J. Alitz, and ending Marshall F. Willis, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1055 Army nominations (42) beginning Debra E. Burr, and ending Janice B. Young, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1057 Army nominations (23) beginning Lionel Baker, and ending Warren S. Wong, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

IN THE FOREIGN SERVICE

PN1019–1 Foreign Service nominations (141) beginning Kenneth C. Brill, and ending Steven C. Taylor, which nominations were received by the Senate and appeared in the Congressional Record of October 3, 2003.

PN1018 Foreign Service nominations (32) beginning Elena L. Brineman, and ending Stephen J. Hadley, which nominations were received by the Senate and appeared in the Congressional Record of October 3, 2003.

IN THE NAVY

PN1058 Navy nominations (416) beginning John A. Adcock, Jr., and ending Joseph Zuliani, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1062 Navy nominations (29) beginning Michael C. Beckette, and ending Robert S. Thompson, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1063 Navy nominations (458) beginning James C. Taylor, and ending Jeffery S. Young, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1064 Navy nomination of Jeffrey D. Dickson, which was received by the Senate and appeared in the Congressional Record of October 16, 2003.

Mr. LEVIN. I move to reconsider the vote.

Mr. FRIST. 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.

Mr. FRIST. 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.

Mr. BYRD. Mr. President, what is the order of business at the moment?

The PRESIDING OFFICER. There is nothing currently pending before the Senate.

Mr. BYRD. I thank the Chair. I ask unanimous consent that I may speak on a matter out of order.

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

A. JAMES MANCHIN—WEST VIRGINIAN

Mr. BYRD. Mr. President, on November 3, the State of West Virginia lost one of its most enduring and most colorful political figures, A. James Manchin.

A. James Manchin was born in Farmington, WV, on April 7, 1927. He had a deep love for West Virginia and its people, and that deep love showed everywhere he went, in every office he held, in everything he did, and with every person he met.

With his booming voice, his flamboyant oratory, and his wonderful sense of humor, A. James was an undeniable presence. I find it difficult to imagine traveling around the State of West Virginia and speaking before a crowd without seeing my friend Jimmy Manchin standing there somewhere in the crowd, lifting his hat into the air—by the way, he wore big hats—and shouting out a greeting to me.

With his political skills and his tenacious determination to make West Virginia a better place in which to live

and work and raise families, Jimmy Manchin won a place in the hearts and minds of people throughout West Virginia. He found a way to touch the hearts of all whom he met. Everybody loved him, even his political opponents. He was a man and a public servant who cared deeply for others and they, in turn, cared a lot for Jimmy Manchin.

I first met Jimmy Manchin in 1949. That was in my second term in the West Virginia House of Delegates. Jimmy had been elected to the house of delegates and was being sworn in that year, 1949. So I first met Jimmy Manchin in 1949, as he and I wove our political careers, when both of us served there in the house of delegates. After that, he pursued and held a multitude of political offices.

In 1961, President Kennedy named Jimmy Manchin as West Virginia State director of the Farmers Home Administration.

In 1972, he was appointed State director of the Rehabilitation Environmental Action Program, REAP, where he was placed in charge of cleaning up and restoring the natural beauty of our State's magnificent rolling green hills and beautiful valleys, which he loved so dearly. His campaign to restore our State's beauty was fueled by his personality and fashioned by his talent for poetic oratory. As part of his REAP campaign, Jimmy called on all West Virginians to ''purge our proud peaks of these jumbled jungles of junkery.'' That was pure A. James Manchin politicking. He understood the theatrical part of politics better than most politicians of this era and, as a consequence, his incredibly successful work for REAP earned him a national ''Keep America Beautiful'' award.

In 1976, he was elected secretary of state, and in 1984, he was elected State treasurer.

In 1998, he again won a seat in the West Virginia House of Delegates, a half century after his first election to that body.

His political career, which spanned 55 years, earned him numerous awards, honors, and recognitions. In 1974, for example, Salem College named him ''Mr. West Virginia,'' while, just this year, the West Virginia Italian Heritage Festival named him ''Italian American of the Year.''

He was an outspoken booster and promoter of West Virginia, a genuine public servant who will be sorely missed by the people of West Virginia.

The Bible says: ''In my Father's house are many mansions.'' Well, Jimmy had a way of using this beautiful verbiage from the King James Bible and, before huge audiences he would quote that. ''In my Father's house are many mansions.'' On November 3, our Father brought home one more. My friend, A. James Manchin.

Mr. President, my wife Erma and I offer our most heartfelt condolences to Jimmy Manchin's wife Stella and their children, Patricia Lee, Mark Anthony, and Rosanna.

Mr. 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.

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

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

PRESCRIPTION DRUG BENEFIT IN MEDICARE

Mrs. LINCOLN. I rise today to offer a few thoughts on the Medicare prescription drug conference report that will soon be brought before the Senate. As I look back on the 10 years I have served in the Congress and I think about probably one of the most important issues we have dealt with, it has been looking toward trying to provide a component to Medicare that, had we seen or known the importance of prescription drugs when Medicare was designed, we would have included.

As we move forward in the discussion and the debate on the pending legislation or the conference report that is being formalized right now, I hope we will not lose sight of our original objective; that is, to do no harm to a program that has been incredible in this country. It has kept seniors out of poverty. It has provided insurance for health care in our senior community when private industry would not come to the table to provide insurance and health benefits for our aging population.

I hope we will keep our focus on doing no harm to a program that has done so much for the well-being of the elderly of this country, that we will look to the ways we can improve it and, more importantly, provide a prescription drug piece that is actually going to enhance our ability to keep down the costs of health care, providing health care to the elderly in this country, and improving the quality of life which, after all, is, has been, and should be our main objective.

First, I thank our chairman on the Finance Committee, Senator GRASSLEY, and the ranking member, Senator BAUCUS, along with their staffs, for their tireless effort in bringing this package together thus far, both in the committee when we marked up the bill and we worked hard to bring about a good, bipartisan measure we felt did provide reforms and improvements to Medicare but did no harm to the basis of a program that has provided so much to so many in this country.

The chairman and the ranking member have really bent over backwards to do all they could to keep this conference together and to keep a package together that was going to be beneficial for the elderly in this country. I know the negotiations at times have been contentious, but I am sure my colleagues join me in expressing our heartfelt gratitude for their leadership and patience on this critically important issue to all elderly Americans and to all American families because, as many of us know, it is not just the elderly who are going to be affected by this program; it is those of us who have aging parents and grandparents. It is those of us who ourselves in years to come will be a part of that aging community. It is not just the elderly of today, it is the elderly of tomorrow and the young of today who feel so involved and think it is such a critical issue to provide that quality of care for our patients and for our seniors.

It is with that that I urge the conferees to keep working and to remain committed to the bipartisan principles contained in the legislation we passed in the Senate last summer, that we poured over and really gave heartfelt consideration and debate to bringing about a program that would enhance Medicare and again would do no harm to a program that has done so much.

The bill we passed in the Senate gives all Medicare beneficiaries, no matter where they live, access to a Medicare drug benefit. For those of us who come from rural States, we find ourselves oftentimes at the low end of the totem pole. We find ourselves in a predicament where our seniors tend to be certainly living in more challenging demographic areas, where their needs and their concerns are more difficult to meet. We find our seniors tend to be more low income. It is critical we do not put a face on this bill that makes one demographic or one geographic area of this country more important than the other.

Most importantly, our Senate bill preserves the traditional Medicare Program as a viable option for seniors by ensuring there is a level playing field between the private sector and Medicare. As many of us know, the private sector can participate in Medicare today. They choose not to. Why? Because we have, over the years, crafted and improved a Medicare Program that is most efficient. The fact is, it is difficult for them to compete, to come in and to provide the same services, the same programs in a cost-effective way where they can actually make money.

Again, we want to do no harm in a program we have begun now to mold and shape in a way that is so productive to the seniors and is cost-effective for our Government.

I believe it is important we be honest with our Nation's seniors, with the taxpayers of this country, and with ourselves, so everyone understands what is in this bill, both good and bad, what have we accomplished in this conference report and what have we not, so we can honestly call this conference report what it is. After all, this is more than just a prescription drug package. It includes a wide range of other provisions that will affect health care for seniors.

Over the last several months, I have consulted with Senator GRASSLEY and Senator BAUCUS on this bill. They have

been very kind and gracious with their time in listening to me as I offered my own advice and feedback on the contents of what was materializing as a conference report. Today I would like to take this opportunity to present some of the questions I have asked of them in these recent weeks, because this is not the bill I would have produced. As we look at this conference report, it is not the bill the Senate produced or that Senators would like to have before us, but it may be the best we are going to be able to get in this Congress under the leadership we have, both in the White House, in the administration, as well as in the House and in the Senate.

If that is the case, do we hold hostage some seniors because we do not have a perfect bill? We are going to have to weigh that out in the course of the next 6 to 7 days as we go through the motions of bringing that conference to a close and looking at what is actually going to be in that conference package.

I would like to make it very clear I asked these questions as someone who wants very much to support a prescription drug package. It is something I can see clearly as a tool that can aid this country, not only in the quality of care and the quality of life our seniors need and deserve in this Nation. The advancement of what pharmaceutical drugs and prescription drugs can do in making the aging loved ones in our families have a better quality of life is so apparent. It is such a critical part of what we must do.

We also have to know there are other things that are in this package. The questions so many of us have asked in looking for what we want to see happen—as I said, I want very much to support a prescription drug package. I have worked hard on this in the 10 years I have been in Congress. I see the importance of it. We want to be able to move forward. It is an issue I have championed throughout the years in my career in Congress. It is why I have worked hard to secure a seat on the Senate Finance Committee so I could have more influence on the shape of the final bill.

In fact, this bill contains several strong provisions which I shall address shortly, but I also think it is so important we be honest with ourselves in terms of what we are actually going to be dealing with.

Furthermore, I asked these questions on behalf of my constituents in Arkansas, along with the millions of other seniors in this Nation who will be affected by this legislation and who have been waiting so patiently for us to at least begin this process. They deserve to know about all of the components of this bill and how it will affect them, wherever they may live in this great country. Like us, they want to know this package will make Medicare stronger for the future, not weaker. We have not worked these some 40-plus years to now take a step in the wrong direction to weaken Medicare. We want to know even if this may not be the end-all, be-all package for Medicare, at least it is the beginning, the first step in looking at how we can strengthen Medicare, both through providing a prescription drug component in a way that reaches every senior in this country in a fair and equitable way, as well as looking at the ways we can reform and reinforce Medicare through coordinated care, through multiple-disease diagnosis and physician programs, where our physicians can look and see the multiple diseases our elderly are dealing with and deal with them in a comprehensive way. My first question concerns the premium support model, of which we have heard an awful lot. Premium support carries a lot of different visions that people have put on it. The model I would like to question is the one which the conferees want to add as a demonstration project. I would like to ask the conferees to explain to me and to the American people: How would this premium support policy make Medicare stronger? That is our question. I am not coming to the floor with a preconceived idea. I really want to know, and I think the American people want to know how it is going to make Medicare stronger.

My concern is that the premium support would force our traditional Medicare Program to compete with private insurance plans in an arena where the rules greatly favor the private plan. That is not true competition. That is asking a program that we have built over these many years to compete with a plan out there that might be able to provide something in a more cost-effective way. But we don't know because we have too many subsidies going there.

The Center for Medicare and Medicaid Services said this model would lead to wide variations in premium rates for Medicare beneficiaries living in different parts of the country and even, perhaps, within the same State. This could be devastating for seniors in Arkansas, especially in our rural areas. And Arkansas is not the only State that is concerned with a lot of rural areas. Why should a senior living in the rural delta of Arkansas pay a higher premium than a senior living in Little Rock, for the same benefit? That is the question I am asking our conferees. Seniors have paid into Medicare all their lives and they deserve to pay the same premium no matter where they live. Premium support would end this uniformity that has always existed in Medicare.

The CMS Office of Actuary also determined that premium support would significantly increase premiums for traditional Medicare. Healthier seniors would leave the traditional program for private plans, thus increasing the cost for traditional Medicare. This would mostly impact seniors in our rural areas where private plans are not likely to go, and where seniors are less healthy. Why are they not likely to go there? They are not there now. They have come in; they tried it; they left because it is not profitable for them. Without substantial subsidies, they are not going to come there again.

As to using this as a demonstration, we pretty much had a demonstration out in rural America to see what is going to happen. It is simply unfair to punish these seniors with a premium increase that estimates say could surpass 25 percent. The privatization advocates say it is only a demonstration of premium support and there are numerous exceptions to the policy. That just simply makes me wonder: If the policy is so great, why make all of these exceptions?

I urge the conferees to take a serious look at this controversial proposal. Look at the ways we can make it much more clear, much more beneficial, and certainly much more economical to the American taxpayer, as well as providing the uniform benefit, across the country, to all seniors who deserve it equally.

It is clear to me that its inclusion is based on privatization ideology alone rather than sound evidence that it saves money or improves the program for seniors. There are way too many studies that indicate the other way. I encourage these conferees, when we have a once-in-a-lifetime chance to be able to do something productive, make sure we are not wasting our time and energy and efforts, and most importantly our resources, on demonstration programs that we know because of past experience are not going to be profitable for anybody if we use our resources that way. Why drain those precious resources from the drug benefit for all on a demonstration that would affect only a few?

The premium support demonstration could destabilize the Medicare Program for all seniors, and it certainly has the possibility of threatening the integrity of Medicare for seniors in Arkansas and around the Nation. The Senate bill we passed, with a great bipartisan margin, did not include this provision, and it was a strong bipartisan bill.

My second question is, Why does the final agreement not retain the Senate's more generous low-income assistance provisions? I am enormously grateful because I know Chairman GRASSLEY and Senator BAUCUS worked very hard on the low-income assistance, and it is a good piece of this bill, so much better than what happened on the House side. So many of us who come from States with a large percentage of low-income seniors are very grateful.

The conferees, however, apparently decided to lower the income eligibility level from the 160 percent of poverty to 150 percent of poverty, and to subject all low-income seniors to somewhat humiliating asset tests.

When we talk about 150 percent of poverty around here, people just assume that everybody knows what that is. But most people don't. Most people don't know that 150 percent of poverty,

which is what we are talking about to be the high end of low-income seniors, is only an annual income, for a couple, of $18,000—$18,000 for seniors to live on as a couple. For singles, it would be $13,470.

One hundred-fifty percent of poverty is what we are talking about as being the high end of low-income seniors, in terms of support for these low-income individuals. I don't know about you, but that is a tough annual income to live on as a senior when you are talking about all the different expenses they have.

This would help 3 million fewer people. Going from 160 percent of poverty to 150 percent of poverty would help 3 million fewer people with their copays than the Senate bill. So I urge the conferees to allow Medicaid to wrap around the cost-sharing requirements in the Medicare bill and allow them to pay for prescription drugs, not on the private plans formulary. This is another component that is going to be very advantageous to our low-income seniors.

This low-income assistance is of special importance to our Nation's older women. Those of us, as women in the Senate, recognize how the aging population is disproportionately reflected in the number of women. I have watched my own mother, as a caregiver, taking care of my father until his death last year, and watched how she put the stresses and strains on her own health care needs, as well as her own finances, to find herself now in the aging population category, more dependent on programs than she has ever been before. So, disproportionately, when we talk about our low-income seniors and their needs, there is a disproportionate amount of those individuals who are women.

Medicare seniors are disproportionately women and they are disproportionately poor, and will be far better served by the Senate's low-income provisions on which we worked so hard to come to a bipartisan agreement.

I am concerned that private drug-only plans may not provide the stability or the predictability that seniors want and need. The insurance companies have told me they don't want to offer a prescription-drug-only plan. The Administrator of the Centers for Medicare and Medicaid Services has said such a plan doesn't exist in nature.

Quite frankly, I believe we have proven that through the Medicare-Medicaid veterans programs the Government can do it in a much more cost-effective manner. But the point is, we are trying to create something that has not existed in nature, and really, quite frankly, those who are going to be there to create it don't want to do it.

I urge the conferees to take a good look at what we are providing there. That is why I am glad the Senate contains a Medicare-guaranteed drug plan, or safety net, called a fallback.

I urge the conferees again to retain the fallback and ensure that a contract is made available for at least 3 years. But the concern to come, if you are a senior out there in rural America and you choose to stay with Medicare fee for service, you have to go to one of these drug-only plans. There has to be two in your region, but one of those two could be a PPO, which means you have to shift your traditional fee for service into an overall PPO in order to qualify for that drug plan or you can go with one of those two plans. If one of them should leave, you have the option of going to the Government fallback. If one of those plans or another plan comes back next year, you immediately have to go out of the Government plan and go back into one or the other of the private plans.

Seniors are going to find from year to year those changes in their premiums, their deductibility, their formularies. They are going to find the list of physicians changing. It is really critical.

I urge our conferees to ensure the fallback is available for seniors as an option, even if the private insurers decide to test whether they want to offer a benefit in a community. Seniors should not have to have fallback plans, especially if the new private plan is significantly more expensive for them and it is more restrictive.

My third question is with regard to consistency and reliability in the Medicare Program. Based on what we know about the details of this agreement—we still have a lot of time ahead of us to be able to read and digest what has actually been negotiated out and put down on paper—it appears that the drug plans will vary throughout the country, meaning that seniors in Arkansas may have different premiums, cost sharing, and formularies than seniors in other States and in other parts of the country.

Even worse, these plans can change their premiums, cost sharing, and formularies for other years.

My question is, How does it strengthen Medicare to make the program less consistent and less reliable for our seniors?

If what we are trying to do is strengthen Medicare with a drug benefit and in the reforms we are trying to make, how does it strengthen that program if we make it more confusing for our seniors, if we make it less consistent and we make their choices less reliable?

I urge the conferees to make the prescription drug benefit less volatile for seniors. If there is anything I know about the seniors in my life, it is the confusion they see right now or which they may have to address in a package such as this. It is devastating to them. It gives them a sense of distrust. That is the last thing we want for our loved ones and those for whom we are working so hard to provide quality of life. This includes limiting variations in the amount seniors have to pay in premiums to only $10 above the national average, no matter where they live.

I, for one, think we should give seniors, most of whom live on fixed incomes, some assurance that their premiums will not vary or increase unreasonably.

I urge the conferees to ensure that those seniors who have employer-sponsored retiree coverage be able to retain it. It is pure and simple. We urge the conferees to ensure that the conference report preserve a level playing field between traditional Medicare and private insurance plans.

I am concerned—and have been—that the proposed agreement unfairly tips the deck against Medicare through the $12 billion stabilization fund that the Secretary of Health and Human Services can use to encourage private plans to participate in areas where they don't want to go. If they wanted to go, they would be there now. But we are going to use $12 billion to try to stabilize these plans to go into areas where they haven't wanted to go and where they aren't currently practicing.

The Senate bill, which we worked on in a bipartisan way, by contrast, provided billions of dollars for private plans to be able to help them in terms of incentives to come into these more difficult areas.

We also have $6 billion in there for Medicare enhancement and improvements in the traditional Medicare Program that all beneficiaries can use—not just those who happen to live in an area where private plans decide to go.

The conference agreement would allow private plans to be paid at a much higher rate than traditional Medicare with no enhancement added for beneficiaries.

I urge the conferees to consider this policy carefully. We want to make sure the traditional fee for service and the traditional Medicare that is there has the enhancement and the ability to improve itself so it can reach all of the seniors in this country, even those in the rural areas of my State and the State of the Presiding Officer and others who have multitudes of rural areas where seniors need health care.

I wish the drug bill did not have a coverage gap or a donut. I am concerned about those seniors who will hit that gap in coverage and have to continue to pay their premiums.

During debate on S. 1, I and many other Senators voted to allow employer-sponsored retiree health plan contributions to fill this gap. I also voted to eliminate the coverage gap altogether, and I voted to prevent seniors from paying premiums when they are in the coverage gap.

Unfortunately, all of these amendments were defeated, but it doesn't mean we can't still address some of these concerns. It doesn't mean our conferees can't work together and come up with some provision that can help to assist us in making sure some of these gaps, some of these holes that have been left are closed for the benefit of the seniors of this country.

I also voted for an amendment to try to contain the skyrocketing costs of

prescription drugs. Every one of us in this Chamber knows that in the next 20 years or less we are going to almost double the number of seniors putting demands on the Medicare Program. We are going to go from 41 million seniors to over 70 million seniors in this country. It doesn't matter what kind of program we put together if we don't look at trying to have some kind of handle on the escalation in costs for whatever program we have. If we almost double our number of seniors who are putting pressure on this program, we are not going to be able to afford it. It is critical that we look at ways we can make more efficient the use of the dollars that we have.

One measure I supported which passed seeks to increase access to more affordable and equally effective generic drugs—something on which I think most of us could agree.

I also voted for an amendment which failed to help consumers better compare the cost effectiveness of prescription drugs.

Finally, I also voted for a successful amendment to allow wholesalers and pharmacists to import prescription drugs from Canada which will provide substantial savings to consumers while ensuring their safety.

These are just some of those components where we in the Senate made corrections and improvements to the bill, some of which were accepted, some of which were not, but most of which I hope, as a conference, they will look at, because the bill we are trying to produce out of this conference should be a bill that will enhance a program that has done so much for all seniors and all Americans.

I urge our conferees to try to retain some of those positions that we took in the Senate; the provisions that we passed.

I look forward to hopefully seeing us complete some of those things that I think will make the bill a better bill. I know reaching this point has been a long and difficult process.

I compliment my Senate colleagues for fighting to include several good provisions that are contained in this bill. This agreement contains a comprehensive rural package that significantly decreases or eliminates the disparity of Medicare payments between rural health care providers. I was very involved in working with the chairman, Members, and others to move some of those provisions forward and certainly making sure that health care was available to seniors and to all people in rural areas.

I can't tell how necessary these provisions are to rural hospitals and physicians and ambulance providers, home health providers and rural health clinics in Arkansas and elsewhere across the country.

It is my hope that the conference agreement will also contain the Senate policy for Medicaid low-DSG States. I am glad the physicians won't receive a cut in payment but a small update as in this conference report.

I encourage my colleagues to include a physician's demonstration on chronic care management that I helped to author in the Senate Finance Committee.

If there is anything we know, it is that our seniors are having multiple chronic illnesses which they are having to deal with. If we don't look at how we manage the chronic care multiple diseases they are dealing with, we will never get the economic efficiency out of Medicare that we could.

Many of my constituents have said when they finally have gotten a coordination for their elderly loved one, it is unbelievable. They were seeing five different doctors in five different places who were not talking to one another. They did not have a nutritionist or someone consulting on depression. When they got that coordination of care, they better understood all of the chronic illnesses their loved one was going through, not to mention getting more efficiency out of the dollars they were spending in Medicare. That individual, that loved one, that elderly person was getting the quality of care they deserve in a more cost-effective way. They were able to manage all of those things in a way that was making the quality of care the best it could be.

One of the demonstrations should take place in a State that has a department of geriatrics with a rural outreach site. Rural areas are one of the most difficult areas to serve our elderly. Unless we have the knowledge of how we can coordinate the care for individuals in rural America, we will never see the efficiency we need. It is critical we have this demonstration so we can determine the healthy outcomes that result when a geriatrician is paid appropriately for caring for a patient with multiple chronic conditions.

I am also pleased the drug bill will include coverage for insulin syringes and that there is a new benefit providing screening for diabetes. Roughly 40 percent of the senior population with diabetes, or 1.8 million seniors, uses syringes every day to inject insulin to control their diabetes. Without coverage, the syringe purchases, which could be especially expensive for seniors on fixed incomes, would not count toward cost-sharing and yearly out-of-pocket expenses. The new diabetes screening benefit will help with the fact that approximately one-third of the 7 million seniors with diabetes, or 2.3 million people, are undiagnosed. They simply do not know they have this very serious condition with complications that include heart disease, stroke, vision loss and blindness, amputation, and kidney disease.

I understand there is also a provision to temporarily waive the late-enrollment penalty for military retirees and their spouses who sign up for Medicare Part B and to permit year-round enrollments so retirees can access the new benefits immediately.

It is important in seeking to strengthen Medicare we reflect on the program's origins and mission. Medicare provides health care for a special population of Americans: millions of seniors, individuals with disabilities, and people with kidney failure, those who are uninsurable in the private marketplace. Over 50 percent of them were uninsurable in the private marketplace when Medicare was started. Congress created Medicare in the first place because private insurance plans were failing to provide affordable health-care coverage for this high-risk population. Therefore, we should proceed cautiously when making major changes to the traditional Medicare Program.

In my home State of Arkansas, over 400,000 people rely on Medicare for their health insurance. Without it, they likely would be among the ranks of the uninsured. This is why I want to ensure if this bill passes it is built upon policies that will make Medicare stronger and more reliable for all of its beneficiaries, that we know as we move forward there is no possible way we could do everything we needed to do in this bill. This is not the bill I would have written, but I was not in charge. I also do not want to see a missed opportunity for being able to move the ball down the field, to do something for which seniors in this country have been waiting patiently.

Some of my colleagues will argue, don't worry, it does not take effect until 2006. Some of these things do not happen until 2010. There will be so many elections between now and then; you do not have to worry. We will change it and fix it and it will have a new appearance by the time we get there. I hope if that is what we are hanging our hat on, we can be sincere as these conferees come out with a plan that will leave intact the purpose of Medicare originally: to provide for those who were the uninsurable, the elderly, the loved ones for every one of us in this body, to make sure when the marketplace would not provide for them, there would be an honest standard benefit so they could get the quality of care, regardless of where they live in this country, that they are due for the great things they have done for our country.

I look forward to reading the legislative language in the coming days to determine my ultimate support for this bill. I hope our conferees are not finished. I hope they continue to look at the ways this bill can be improved. Our work is never done in this Senate, whether we pass a bill into law and look toward 2006 or 2010 or whenever may be that we think some of the unreasonable things in here we can shut our eyes to and move forward with, but that we can make the changes now and we can create a bill that is the best we can do, knowing it is not perfect but that it will move us forward to provide a critical prescription drugs component in the 21st century to a program we started many years ago that has meant so much to so many.

Ultimately, I must weigh whether the benefit contained in this bill to provide prescription drugs is better than no benefit at all. I hope that is not the case. I hope the case will be we have done everything we possibly could, looking at the bipartisan package the Senate passed, and how hard we worked to get there to make this final product the best it can be for some of the most special people in this country.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Idaho.

MORNING BUSINESS

Mr. CRAIG. I ask unanimous consent that there now be a period of morning business with Senators permitted to speak up to 10 minutes each.

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

IN MEMORY OF PETE B. WILSON

Mr. CRAIG. Madam President, I come to the floor under the privilege to speak about a situation that occurred in Idaho that brought great sadness to me and to some of my staff.

In 1974, when I was elected to the State legislature, prior to that legislative session convening, I traveled to the north end of my State for the North Idaho Chamber Tour which goes on every 2 years for Idaho legislators. It was at that time I met the chairman of the North Idaho Chamber, a fellow by the name of Pete Wilson, who was a leader in his community of Bonners Ferry, who was well known across north Idaho as an attorney who gave so much of his time to his community and to the citizens of that area.

Little did I know years later when I ran for Congress, Pete Wilson would become one of my strong supporters. Pete became a friend down through the years. Just a few years after I got here, a young woman came to my office to seek employment, a young lady by the name of Brooke Roberts, who happened to be Pete Wilson's niece. Brooke Roberts is now my head of legislative affairs and my chief counsel and assistant manager of my office. Not only has Brooke played a tremendous role in my political life, but her uncle, Pete Wilson, has played a tremendous role. I say now, sadly, in the Senate, has played. Last Friday night or early Saturday morning, Pete Wilson and his son Kip were killed by asphyxiation believed to be carbon monoxide poisoning. His wife Rhoda and another son who was there visiting because of Pete's illness at age 78 are still recuperating from a near-death experience of carbon monoxide poisoning.

My sympathies go out to Rhoda and to Duff, to Tim and to Neal, the remaining sons of this wonderful family. Idaho has lost an icon. Idaho has lost one of those kinds of citizens who gives and gives and gives more, not for himself but for the community he was a leader in, for the State he loved so well, for Boundary County, where he sought his professional life, where he raised his family, and where he made a mark on Idaho. Pete Wilson will be long remembered as a citizen of our State who gave.

He has always been in my political life, not just as someone who supported me but someone who advised me. Uncle Pete would pick up the phone and call and say: LARRY, you're wrong about this issue. You ought to do it this way or you ought to do it that way. And usually he was right. I took his advice because he was so well grounded in the community he served.

He served as president of the chamber, served as a lawyer who in many ways gave time and time again to the charities and to the communities of that marvelous community of Bonners Ferry and Boundary County.

Pete Wilson will be missed. Pete Wilson will be long remembered. It was a tragic accident that took him and his son, nearly took another son, and his wife.

To their family, I must say, on behalf of Suzanne and myself, we are so saddened by this situation, but we want Idaho to know Pete Wilson will be remembered as someone who made our country work, someone who never wanted to aspire beyond being just that strong community leader who associated himself communitywide and statewide to make for his family and for his friends a better place to live.

Pete Wilson of Bonners Ferry, ID, of Boundary County, ID, made north Idaho a better place because he was there as a marvelous leader of that community. Pete will be long remembered.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I want to speak in morning business, but I would be pleased to yield, with unanimous consent, to my friend from Delaware, Senator BIDEN.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I feel like I am part of New Jersey. The Senator from New Jersey is—I don't want to hurt his reputation—my closest ally in the Senate. We share a common border. Although I always kid him, as big as New Jersey is, the Delaware River is owned by the State of Delaware up to the high river mark in New Jersey. It is one of our claims to fame. We literally lap upon New Jersey's shore. But I thank him. I will be very brief.

CONGRATULATING FRENCH PRESIDENT CHIRAC

Mr. BIDEN. Madam President, I rise today to congratulate French President Jacques Chirac for having taken resolute steps to stop attacks on Jewish sites in France and, more broadly, to address some of the causes of anti-Semitism among Muslim youths in that country.

As you know, Madam President, France has a large Muslim minority population. In the past, I have been strongly critical of President Chirac, the French, and other Europeans for not having been sufficiently attentive to the cancer of anti-Semitism that still exists in Europe, and in the United States to some extent.

Some have ignored the insidious way criticism of some Israeli policies has been conflated into pure anti-Semitism. Others have shied away from meeting the problem head on because of fears of provoking more violence in Europe. Still others have refrained from speaking out for fear of alienating domestic electoral constituencies.

Whatever their motives, until recently, precious few European leaders have demonstrated very much leadership with regard to combatting anti-Semitism, which is on the rise.

Last Saturday, a Jewish school near Paris was destroyed by an arson attack. Two days later, President Chirac convened a meeting attended by Prime Minister Raffarin and other top officials to react to this latest outrage. The result of the meeting, as reported in the New York Times, was a package of measures including beefed-up policing and prosecution of anti-Semitic violence, and also an earmark of nearly $8 billion worth of investment in urban renewal to clean up neighborhoods that breed Islamic fundamentalism.

President Chirac was quoted as saying: ''Anti-Semitism is contrary to all the values of France,'' and that Jewish Frenchmen and Frenchwomen are at home in France just as are all other groups.

Last month, the Committee on Foreign Relations held a hearing on anti-Semitism in Europe, which revealed the shocking extent of the problem. Recent public opinion polls in Europe have confirmed our hearing's testimony.

One of the most important weapons in the fight against anti-Semitism is political leadership. Or as Justice Holmes said: The best disinfectant is the light of day. The best disinfectant is light, and shedding light on the anti-Semitism in Europe, and criticizing it, can only be done effectively by Europe's political leadership.

France's measures are, to be sure, only a beginning of a long struggle to eradicate this disease from the European body politic. I have been critical in the past when European leaders have not responded. Now President Chirac should be complimented for having had the courage to forcefully show the way. He deserves credit, and I hope it is the beginning of a process.

(The remarks of Mr. BIDEN pertaining to the submission of S. Con. Res. 82 and S. Con. Res. 83 are printed in today's RECORD under ''Submitted Resolutions.'')

Mr. BIDEN. Madam President, I thank my friend from New Jersey. We use that phrase very loosely around

here, but he is my friend, and I thank him for his courtesy.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, before the Senator from Delaware leaves the floor, I commend him for his arduous effort here on behalf of reminding the French Government that anti-Semitism is antithetical to a democratic society and to those with whom we have relationships.

Senator BIDEN has worked on this for several years, and he is a voice they will listen to. We commend him again for his thoughts and his remarks.

Mr. BIDEN. I thank the Senator.

(The remarks of Mr. LAUTENBERG pertaining to the introduction of S. 1882 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 1888 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 267 located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. SPECTER. I thank the Chair. In the absence of any other Senator on the floor, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. I ask unanimous consent that I be allowed to speak as in morning business for as long as I may require.

The PRESIDING OFFICER. The Senate is already in morning business.

AMERICA'S INVESTMENT IN SCIENCE AND TECHNOLOGY

Mr. ALEXANDER. Other than the war in Iraq, I suppose the subject we hear most about is jobs. We are worried, as are our constituents, about the future. How do we keep good-paying jobs? We are aware that in this country of not very many people, compared to the rest of the world, we have about 25 percent of all the money in the world. We are a fortunate country.

How do we, as the country grows, and as we worry about global competition—especially about how China develops—keep our good-paying manufacturing jobs? How do we keep our standard of living? We have struggled through that for a long time. We have worried about it for a long time.

After World War II, we helped Europe get back on its feet through the Marshall plan and basically provided direct competition there, as the people making lower wages began to make some of the things we made. We struggled with Japan, worrying about whether the Japanese, in the 1980s, might take us over economically. But that didn't happen. We were able to keep our standard of living. We have watched Africa, the former Soviet Union, and other parts of the world grow and develop, even though people there were making much lower wages than Americans. We have been able to keep our standard of living.

I want to talk today about one major reason why we have been able to keep that standard of living and why there is a lesson for us for the future there. I want to talk about our investments in the physical sciences, about our investments in science and technology.

Last week Energy Secretary Spencer Abraham released an exciting 20-year plan for the future of scientific facilities in our country. This plan provides for an exciting future for science that will revolutionize science and our society. The plan includes participation in international collaborations to make fusion power a reality. It strengthens our scientific computing capabilities to develop advanced methodologies ranging from modeling chemical reactions to predictions of weather and climate change. It includes facilities to develop and characterize proteins for microbial research on a grand scale. These are just a few of the facilities that are included in Secretary Abraham's visionary plan.

This ambitious plan serves as a reminder that since World War II, according to the National Academy of Sciences, half of our job growth can be attributed to our investments in science and technology. This should also remind us, especially in this era of global competition, that future investments in science will be even more important. To create more good-paying jobs for Americans, I therefore recommend Congress and the administration do for the physical sciences what it has done in the last few years for the health and life sciences: double the Department of Energy's Office of Science funding, from the current $3.3 billion to more than $6 billion per year within the next 5 years.

Our investments in science and technology have continued to create a remarkable legacy of innovation. U.S. patent rates exceed most other industrialized countries, a direct result of historically strong research and development investments and technological leadership. For example, in 1986, the United States had more than double the number of patents than the rest of the world, with nearly 80,000 patents granted. In 1999, the number of patents granted in the United States was over 160,000, while those in the rest of the world were less than 80,000. There were 160,000 in our country, 80,000 patents in the rest of the world. These patents, these innovations, led to new technologies and new jobs. Nearly 5.3 million new firms were launched between 1990 and 1998 that were mainly high-technology companies. Not all of them succeeded. But these new firms accounted for one-third of the 10 million new jobs created between 1990 and 1997.

However, last fall, the President's Council of Advisers on Science and Technology reported funding for research and development is becoming dangerously imbalanced. They recommended the funding levels for the physical sciences and engineering be improved and that funding levels be brought to parity with the life sciences. To correct this trend, we should increase the authorizations for a variety of scientific and technological endeavors at the DOE. The Department of Energy, through its Office of Science, is the largest supporter of physical science and engineering research and supports many of the federally funded research and development centers in our country. These centers are considered by many to be the crown jewels of the R&D enterprise in the Nation. These centers and our great research universities create the technology of the future that leads to the jobs of tomorrow.

Sometimes I think we take for granted these research universities and our great laboratories the Department of Energy runs. We not only have more of the great research universities in the world in our country, we have almost all of them. Nowhere in the world has national laboratories, such as Oak Ridge in my State, or Los Alamos, or more than a dozen others across our country. No other country in the world has the number of federally funded research institutions such as our laboratories that are operated by the Department of Energy, and the great research universities of America, which are funded to a great extent by Federal funding.

The Nation must have balanced investment to maintain the overall health of science and technology research. Recent funding increases in the National Institutes of Health and the National Science Foundation cannot compensate for the declines in funding at Federal agencies, such as the Department of Energy. Many of the advances in the health sciences could not have been realized without past investments in the physical sciences. Much of the basic work in the physical sciences, on which all other sciences, even the

biological sciences, are based, is supported by the Department of Energy. Harold Varmus, Nobel Laureate and former director of the NIH, summed up very nicely the unique relationship between the medical and physical sciences in an editorial in the Washington Post.

He stated in that editorial:

> Medical science can visualize the inner workings of the body. . . . These techniques are the workhorses of medical diagnosis. And not a single one of them could have been developed without the contributions of scientists, such as mathematicians, physicists, and chemists supported by the agencies currently at risk.

Although this statement was made 3 years ago, it is still true today for the Department of Energy Office of Science.

The fundamental work in high energy and nuclear physics has led to a revolution in medicine. Our quality of life has been greatly improved with the advent of nuclear medicine. As President Bush recently acknowledged, one of every three hospital patients benefits from nuclear medicine. None of this would have been possible without the fundamental research of physicists in the last century and today, physicists who have been supported in large part by the Department of Energy and its predecessors.

Advances in magnetic resonance imaging—we call it MRIs in everyday language—could not have been possible without the development of superconductors. Small electron linear accelerators are used in hospitals every day to treat cancer patients. Yet this would not have been possible without our investments in science.

Likewise, the development of laser and optics technology has led to a revolution in medical procedures. Surgeries, such as gall bladder removal, that were once invasive and required weeks of recovery, can now be performed with a minimal incision and require minimal recovery time. None of this would have been possible without the basic research performed by scientists at our research universities and National Laboratories funded by our Federal investments in science and technology.

We are advancing even further than once imagined, thanks to these investments in science. The Department of Energy is leading the way in developing materials for creating the artificial retina. The development of an artificial retina requires new and innovative materials, research, and nanoscale fabrication techniques that are on the forefront of science.

Preliminary models of the artificial retina have enabled patients to see for the first time. I saw some of that research being done at Oak Ridge. Although these patients did not regain full sight, this is just the beginning. This research caused three patients to see for the first time. With advancements in materials and fabrication techniques, sight may eventually be returned to those who cannot see. This is truly amazing. We are just at the edge of what science can do.

The physical science and engineering will also play a major role in advancing technology for homeland security. The development of detection systems for chemical, biological, radiological, and nuclear weapons will require investments in science and technology. Crisis response technologies and analyses will also be dependent on science and engineering. The daunting challenges of developing countermeasures for chemical, biological, radiological, and nuclear weapons will be addressed in large part by the development and application of our scientific capabilities. Our Nation has no choice. We must invest heavily in physical sciences and engineering to stay competitive in these fields. Our competitiveness is greatly impacted by the number of graduate students entering these fields.

A definite correlation exists between the number of graduate students enrolled in science and engineering and the funding levels for these fields. The funding levels for the medical sciences have increased more than 20 percent over the past decade, and graduate student enrollment has increased more than 40 percent. However, there were 20 percent fewer graduate students in physics and 9 percent fewer in chemistry in 2000 than in 1993 while the mathematical sciences had 19 percent fewer graduate students. These trends cannot be allowed to continue.

Science and technology are an integral part of our everyday lives. To sustain our Nation's technical and scientific leadership, we must support increased authorizations for our science programs. The Energy bill reported out of conference will help put our Nation on the path to sustained economic growth. But the Energy bill is not just investing in science; it is investing in jobs.

The quality of our lives and the prosperity of our Nation will be greatly enhanced and made better if we agree over the next 5 years to do for the physical sciences what we have done for the health sciences—double our spending—according to the visionary plan that the Secretary of Energy laid out for the next 20 years.

Thank you, Mr. President. I yield the floor.

SPECIAL BIRTHDAYS

Mr. BURNS. Mr. President, this is a special day today. I just want to take note of it now. It is a special day, the birthday of someone Americans all know. He is one of our senior citizens who has his birthday today. When this animated character burst on the scene, it changed our country. That change was bound to happen because of his appeal to the young and the old. He has changed the way we communicate. He has changed the way we travel.

He is just a little fellow, but size has meant nothing to this animated character. He has always held that it is not the size of the dog in the fight but the size of the fight in the dog.

He has changed our attitude on how we solve our problems and most times taught us to laugh at ourselves and lighten up on ourselves. He has entered our lives and he has changed us all, from the young to the old.

Today is the birthday of Mickey Mouse. It is also shared by our good friend, the President pro tempore now in the chair, Chairman STEVENS.

I yield the floor.

HONORING OUR ARMED FORCES

Mr. JOHNSON. Mr. President, I rise today to pay tribute to Chief Warrant Officer Two Scott A. Saboe, a resident of Willow Lake, SD, who died on November 15, 2003, while serving in Operation Iraqi Freedom.

Chief Warrant Officer Two Saboe, a member of A Company, 4th Battalion, 101st Aviation Regiment, 101st Airborne Division, was based out of Fort Campbell, KY. He was among 17 soldiers killed when two Army Black Hawk helicopters collided midair in the northern Iraq city of Mosul.

Answering America's call to the military, Chief Warrant Officer Two Saboe had planned a military career since attending high school at Willow Lake, SD. A member of the football, basketball, and track teams, friends remember him as a serious and committed person. Chief Warrant Officer Two Saboe's former coach and teacher Bill Stobbs said that ''he died doing what he loved, and he was a dedicated soldier.'' His childhood friend, Darin Michalski, knew that ''he was giving his all and believing in what he was doing.''

For all of Chief Warrant Officer Two Saboe's commitment to public service, nothing was more important than his family. The 33-year-old leaves behind his wife Franceska and 6-year-old son, Dustin, as well as his sister Ann Remington, who is stationed at Walter Reed Medical Center in Bethesda, MD. He also leaves behind his father, Arlo Saboe, a decorated Vietnam war veteran, in addition to his proud, extended family and countless friends.

Chief Warrant Officer Two Saboe served our country and, as a hero, died fighting for it. He served as a model example of the loyalty and dedication in the preservation of freedom. The thoughts and prayers of my family as well as the rest of the country's are with his family during this time of mourning. Our thoughts continue to be with all those families with children, spouses, and loved ones serving overseas.

Chief Warrant Officer Two Saboe led a full life, committed to his family, his Nation, and his community. It is his incredible dedication to helping others that will serve as his greatest legacy. Our Nation is a far better place because of Chief Warrant Officer Two Saboe's life, and, while his family, friends, and

Nation will miss him very much, the best way to honor his life is to emulate his commitment to service and community. In the words of Michalski, ''Most of us go through our whole lives and don't really accomplish anything. And some of us only live to be 33, and we're heroes.''

I join with all South Dakotans in expressing my sympathies to the family of Chief Warrant Officer Two Saboe. I know that he will always be missed, but his service to our Nation will never be forgotten.

Mr. President, today I pay tribute to Private First Class Sheldon R. Hawk Eagle, a former resident of Eagle Butte, SD, who died on November 15, 2003, while serving in Operation Iraqi Freedom.

Pfc. Hawk Eagle, a member of the 1st Battalion, 320th Field Artillery, 101st Airborne Division, was based out of Fort Campbell, KY. He was among 17 soldiers killed when two Army Black Hawk helicopters collided mid-air in the northern Iraq city of Mosul.

Answering America's call to the military, Pfc. Hawk Eagle enlisted in the Army during a visit to his sister in Grand Forks, ND. An enrolled member of the Cheyenne River Sioux Tribe, his Lakota name was Wanbli Ohitika, meaning Brave Eagle. A descendant of Crazy Horse, military duty was essentially a family duty in his home. His family, from his grandfather to his uncle to his father, all served their country in the armed forces.

News of his death spread rapidly through Indian Country, but not faster than on the Cheyenne River Reservation where he was raised by his aunt and uncle, Harvey and Bernadine Hawk Eagle, after his parents passed away. Emanuel Red Bear, a spiritual leader in the community, remembers Pfc. Hawk Eagle as ''a role model in his quiet way. He was a modern-day warrior.'' His sister, Frankie Hawk Eagle remembers that, ''His goals were important to him, and his whole persona was full of life. He was well-respected in the Armed Forces and believed that everything he did was for his family, his Native people and for the most, his country. He was Pfc. R. Hawk Eagle, a United States Army Soldier.''

Pfc. Hawk Eagle served our country and, as a hero, died fighting for it. Native Americans have a great history of serving in the Armed Forces and fighting and dying to protect this country, including the ''Code Talkers'' of World War II. Pfc. Hawk Eagle served as a contemporary example of that loyalty and dedication to the preservation of freedom. The thoughts and prayers of my family as well as the rest of the country's are with his family during this time of mourning. Our thoughts continue to be with all those families with children, spouses, and loved ones serving overseas.

Pfc. Hawk Eagle led a full life, committed to his family, his Nation, and his community. It is his incredible dedication to helping others that will serve as his greatest legacy. Our Nation is a far better place because of his life, and, while his family, friends, and Nation will miss him very much, the best way to honor his life is to emulate his commitment to service and community.

I join with all South Dakotans in expressing my sympathies to the family of Private First Class Sheldon Hawk Eagle. I know that he will always be missed, but his service to our Nation will never be forgotten.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On January 23, 2003, Luis Collazo was attacked and beaten by a man who asked him for a smoke as he walked to his car from a bar and a pizza establishment in Palm Springs, CA. The attack came after the suspect made an antigay slur to Collazo, said Palm Springs police Detective Mark Melanson. Fortunately, Collazzo was quickly released from the hospital after being treated for facial bruises.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, on November 14, 2003 I was necessarily absent and unable to cast my vote on rollcall votes 450, 451, and 452. In each case, I would have voted ''nay,'' which would not have affected the outcome of the vote.

CAMBODIAN MOMENT

Mr. INOUYE. Mr. President, a few moments ago I read an article that appeared in The State newspaper of Columbia, SC: ''Misled and Undermanned: the Truth on Iraq.'' It was prepared by my dear friend and colleague, ERNEST F. HOLLINGS, the senior Senator of South Carolina.

His words reminded me of sad moments—reminded me of a divided America—and reminded me of the pain we all experienced. I do hope my colleagues will set aside a few moments to read and reflect on these thoughts of my dear friend from South Carolina.

I do not believe that Senator HOLLINGS wrote this article with any other motive than to share his candid observations as someone who was there and who understands well the situation currently before us. His words are thought-provoking, and deserve the attention of all of our colleagues.

I ask unanimous consent that Senator HOLLINGS' article be printed in the RECORD:

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

MISLED AND UNDERMANNED: THE TRUTH ON IRAQ

(By Senator Ernest F. Hollings)

The majority leader of the Senate, Mike Mansfield, quietly opposed the war in Vietnam for years. He had a practice of writing memos in opposition to the war to Presidents Johnson and Nixon while publicly supporting the war on the floor of the Senate. But finally, when Cambodia was invaded under President Nixon, he snapped.

Going on television, he said Vietnam was a mistake from the get-go. The next day he received a letter from an admirer who had just lost her son. She said: ''I just buried my son to come home and watch you say that the Vietnam War was a mistake from the beginning. Why didn't you speak out sooner?''

I came to the Senate in 1966, and if Mansfield, an expert on the Far East, had spoken out at that time, we might have saved 50,000 lives. I have reached my ''Cambodian moment.''

In August and September of 2002, President Bush, Vice President Dick Cheney, National Security Adviser Condoleeza Rice and Defense Secretary Donald Rumsfeld all cautioned that Saddam was reconstituting a nuclear program. On September 8, the vice president said that we ''know with absolute certainty'' that this was what Saddam was about; then on October 7, President Bush went further, saying, ''Facing clear evidence of peril, we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud.'' Four days later, I voted for the Iraq resolution.

I was misled. Saddam was not reconstituting a nuclear program, and is no way was he connected to 9/11. There were no terrorists in Baghdad, no weapons of mass destruction, and Saddam was no threat to our national security. Iraq was not a part of the war on terrorism.

Now we have another Vietnam. Just as President Johnson misled us in Vietnam, President Bush has misled us into Iraq. As in Vietnam, they have not met us in the streets hailing democracy. Thousands of miles away, we are once again ''fighting for the hearts and minds.'' Again, we are trying to build and destroy. Again, we are bogged down in a guerrilla war. Again, we are not allowing our troops to fight and win—we do not have enough troops. Again, we can't get in, can't get out. Again, instead of Vietnamizing Vietnam, we are trying to Iraqify Iraq. And already, with Rumsfeld's memo, we have the Pentagon papers.

Once more we are blaming intelligence. It's not bad intelligence; it's because we refuse to listen to good intelligence, like that from General Brent Scowcroft. We had plenty of warnings.

Iraq was under sanctions. We were overflying the north and the south; and you can bet your boots Israel knew whether or not Saddam had nuclear systems. Its survival depends on knowing. Iraq was no more a part of the war on terrorism than North Korea.

If the troops are to fight, there are too few. If they are to die, there are too many. My goal is to stop the killing and injuring of our GI's. To support the troops, we need more troops—at least 100,000 more. Get in, clean

out Baghdad and the Sunni triangle. Get law and order. Then get a constitution and victory. But since General Eric Shinseki said we need ''several hundred thousand troops,'' Secretary Rumsfeld is determined not to send troops, but to argue structure. ''Operation Meatgrinder'' continues.

Apparently, the game plan is to give 200,000 hungry Iraqis a uniform, a square meal, and then announce we have security and leave. We'll end up with exactly what Secretary Rumsfeld said we wouldn't have—a Shiite democracy, or another Iran. And, of course, a lot more terrorism.

For the first time in history, this administration, this Congress, will not pay for the war. And for the Guardsmen we are sending this time, Washington hopes they don't get killed so that they can hurry back and be given the bill. We are not going to pay for it; we need a tax cut.

We should have listened to former President ''Papa'' Bush, who wrote in A World transformed, ''we should not march into Baghdad . . . turning the whole Arab world against us . . . assigning young soldiers . . . to fight in what would be an unwinnable urban guerrilla war.''

RECOGNITION OF THE HONORABLE TOM OSBORNE

Mr. NELSON of Nebraska. Mr. President, I rise today to congratulate my friend and colleague from Nebraska, Congressman TOM OSBORNE, on his dedicated work for mentoring programs that has earned him a place in the Hall of Fame for Caring Americans.

Congressman OSBORNE has been awarded this honor by the Caring Institute for his commitment and understanding of the positive influence that mentors can have on a child's life. In 1991, while he was still head coach of the Nebraska football team and I was the Governor of Nebraska, TOM OSBORNE and his wife Nancy started a program called TeamMates. This program paired middle school students with university football players to give young people someone who could talk with them, help them set goals, and reinforce basic skills, attitudes, and other lessons of life. The program was a success and it soon expanded statewide.

TOM OSBORNE, the football coach, became Congressman TOM OSBORNE in 2000, the same year I joined the Senate, and it has been a pleasure to work with him on several mentoring projects. His Mentoring for Success Act authorized $50 million in new competitive grant awards to local school districts and community based organizations to fund mentoring initiatives. He also led the way in designating January ''National Mentoring Month.'' He continues to work to fund these valuable programs.

I am glad to see that the Caring Institute has chosen to honor Congressman OSBORNE's efforts to make mentoring a priority in the United States. The environment in which many kids today are raised looks nothing like the one in which I grew up. Today, close to 50 percent of all children are raised in single-parent households. In most cases, single parents work long hours; their energy and resources are stretched thin. In other cases, even two parent families cannot provide—for various reasons—the support a child needs. Congressman OSBORNE's Mentoring for Success Act is for these kids. It can make a big difference for so many young people and it can change these kids' lives and brighten their future.

It is appropriate that Congressman OSBORNE receive this award just before Thanksgiving because his programs have given so many young people a friend and a brighter future to be thankful for. Congratulations to Congressman OSBORNE and thank you for your continuing commitment to mentoring.

ADDITIONAL STATEMENTS

WORLD YOUTH ALLIANCE

● Mr. BROWNBACK. Mr. President, at a time when the global community's attention is focused on rebuilding Iraq and the relations that states have to one another, I would like to commend the World Youth Alliance, which offers itself as a way forward to address some of the critical questions with which we are faced.

Working with over 1 million young people from over 100 countries around the world, these young people have had a constant presence at the United Nations and other international institutions for the last 4 years. Their membership consists of young people of diverse faiths—Christian, Jewish, Muslim, and other—and young people of no faith. Their binding commitment is to work for the promotion of the dignity of the person at the international level and in each of their countries and communities around the world.

The World Youth Alliance understands that building sustainable, free and just societies can only be accomplished when the human person is recognized and placed at the center of all policy, programs, and culture. In doing this, they are reaching out to each other and to the world to impact the policy and culture that is being created around them.

The dignity of the person, according to the World Youth Alliance, is intrinsic and inviolable. The dignity of the person is the basis for all human rights. In this, they place themselves directly in the heart of the Universal Declaration of Human Rights, and the great human rights history that has particularly grown after the tragedy of World War II.

The World Youth Alliance recognizes that each individual, no matter how vulnerable, must be protected by the state. Otherwise, the state finds itself in the terrifying position of deciding the worth of a human being and objectifying the human person. At such a point, the freedom and justice of the state are called into question. The World Youth Alliance then reminds the global community that the person can never be seen as the problem, but must be recognized at all times with having the dignity and rights which the person possesses by simple right of being. This global coalition understands that to protect each human person and to build sustainable and free societies, this dignity must be extended to each member of the human family, unconditionally, from the moment of conception until natural death.

In the last 4 years, this coalition of young people has had extraordinary success. Their membership continues to grow. They have participated at major United Nations conferences. They have spoken to the General Assembly and to individual states, and they have helped to determine the outcomes of documents and resolutions.

This group of young people has trained over 10,000 young people on the importance of the international institutions and the relationship that these institutions have on their lives. They have initiated projects together: projects to build community centers in Nigeria for young people who are struggling to build up their communities and combat HIV/AIDS; projects to educate and rebuild schools in Tanzania, South Africa and Mexico; projects with street children in Latin America; projects with art and beauty to reawaken the transcendent among all of their generation and ours.

Most recently the World Youth Alliance has worked with a coalition of states at the United Nations, including the United States, on the draft discussions to prepare for an international treaty on human cloning. At the first discussion on cloning, the United States quoted from the World Youth Alliance in their statement to the General Assembly. Recognizing a shared commitment to protecting the dignity of each and every person, the statement read: ''[this resolution] also responds to a call by over one million youth from all continents. They are members of the World Youth Alliance, who believe that only a total, comprehensive ban on human cloning would protect and respect the dignity of all human beings. They respectfully asked the Ad Hoc Committee to work towards a complete ban. To the youth, the future world leaders, we hope that the Sixth Committee will be able to say—we heard you!''

As the World Youth Alliance continues to grow and expand their work in Latin America, Africa, Asia and Europe, let us wish them the same kind of continued growth and success. Their work to train young people to engage at the international level, connecting a generation together in the promotion of the dignity of the person and human rights, is precisely what the world needs. I look forward to seeing many of them as the future world leaders, a role in which they have already found themselves, demonstrating remarkable integrity, vision and capability. Our work will be well served when it inspires this kind of response and commitment from the world's youth.●

RECOGNITION OF DR. G. TIMOTHY KAVEL'S RETIREMENT

● Mr. CARPER. Mr. President, I rise today in recognition of Dr. G. Timothy Kavel upon his retirement as vice president of Delaware Technical & Community College and Campus Director of the Jack F. Owens Campus in Georgetown, DE, serving all of Sussex County. His leadership over the years has won him the respect of faculty and students alike, along with the gratitude of our entire State. He has been, and remains, a trusted friend.

Delaware Technical and Community College was created in 1966 when the Delaware General Assembly approved House Bill 529. The Southern Campus, near Georgetown, opened in September 1967 with 367 enrolled students. The name was changed to the Jack F. Owens Campus in May, 1995. Today, the college has four campuses, the Owens Campus, the Terry Campus in Dover, and two northern locations, in Stanton and Wilmington. In 1999, Delaware Technical and Community College was named the Community College of the Year by the National Alliance of Business.

In his position as vice president, Tim has contributed to the overall policymaking, planning and development of the college system. As director of the Owens Campus, he assumed the responsibility of the total campus operation on a day-to-day basis. During his time at Delaware Technical and Community College, he has made many improvements to the campus, student and faculty life and school programs. The college houses the Carter Partnership Center, where several other postsecondary institutions, including the University of Delaware, Wilmington College and Delaware State University, utilize the classrooms for their own bachelor's, master's and doctorate classes.

Another of Tim's major contributions to the Owens Campus has been improving the campus. He has helped expand and beautify the physical plan of the college. Through Tim's leadership, the new Student Services Center was built to be a consolidated services center for students. It houses various service facilities, including a dining hall, meeting places for student activities, financial aid offices, and counselors' offices. This center is a fitting tribute to Tim's focus on students.

Tim has also aided in upgrading and renovating various buildings on the Owens campus, including the Jason Technology Center, which is currently undergoing a complete refurbishment. This center, considered the birthplace of Delaware Technical and Community College, was built in the 1940s. It originally was a high school for Black students, and later became the start of the Community College. Tim made a case for the need of a new classroom facility, and after 8 years of construction, the final wing of this building will be completed by the end of this fiscal year. The new, state-of-the-art center houses new classrooms, science labs and a computer lab. This renovation serves as a testament to Tim's commitment to bring the college into the information age.

Tim also has a passion for maintaining the grounds of the campus. He has helped raised private funds for the enhancement of the grounds, a new entrance to the college, and outdoor furniture. His passion for keeping the campus clean has spread to faculty and students alike. Campus pride is so abundant that students and faculty will pick up trash voluntarily off the ground in an effort to keep the campus clean.

Tim's 38 years of experience as an educator includes teaching at both secondary and postsecondary school levels, counseling, fund raising, personnel and a wide variety of management activities. He has also consulted with other nations who are developing community colleges, offering them his perspective, and has participated in projects in Panama, Peru, Guatemala, Taiwan, Saudi Arabia, Mexico and Indonesia.

Tim has also been an active member of the community beyond his role at Delaware Technical and Community College. He has served as president and board member of various community and civic organizations, including Children and Families First, Partners of the Americans—Delaware Chapter, Kiwanis Club, Sussex Tech School District, Western Boys & Girls Club, Seaford School District, and Morning Star Publications.

Tim has been married to his high school sweetheart, Deanna, for 40 years. The two met when Deanna was in 10th grade and Tim was in 11th grade. They began dating, and the rest is history. The Kavel's only child Christopher and his wife Rebecca have a 3-year-old daughter, Jenna. Tim is a loving husband, father and grandfather, who enjoys spending time with his family, golfing, and reading nonfiction. He and his wife also have a home in St. Simon, GA, where they like to spend time vacationing and relaxing.

Through Tim's tireless efforts, he has made a profound difference in the lives of thousands of students and enhanced the quality of life for an entire State. Upon his retirement, he will leave behind a legacy of commitment to public service for both his children and grandchildren and for the generations that will follow. I thank him for the friendship that we share, and I congratulate him on a truly remarkable and distinguished career. I wish him and his family only the very best in all that lies ahead for each of them.●

2003 NEW JERSEY PROFESSOR OF THE YEAR

● Mr. CORZINE. Mr. President, it is my honor and pleasure to recognize Dr. Carole A Gavin, recipient of the 2003 New Jersey Professor of the Year Award. This award, which is sponsored by the Council for Advancement and Support of Education and the Carnegie Foundation for the Advancement of Teaching, acknowledges outstanding professors for their excellence in teaching and their commitment to students.

Dr. Gavin has been a professor of English as a Second Language, ESL, and French at Burlington County College since 1971. She has worked tirelessly to develop supportive infrastructures in which her students can learn and thrive. As a professor of ESL and the ESL program coordinator, Dr. Gavin uses innovative strategies to engage her students and help them reach their full potential. For example, the TNT Tutoring Team is an idea that Dr. Gavin developed to match her ESL students with retired professionals from an adult living community. Exposure to the English language is just the beginning of the program. Through writing journals and discussions of current issues, the students gain a cross-generational perspective that enhances their cultural experience. The education the students gain is not one that can be found in any classroom or textbook—the interactions between the senior citizens and the students offer knowledge that will not only help students succeed in passing a test but succeed in life.

Dr. Gavin is also the principal faculty advisor of the Phi Theta Kappa Honor Society. In order to strengthen the resources available to her students, Dr. Gavin assembled 17 new and current faculty members to join her in mentoring the students. Her efforts have succeeded in enriching the programs available to the members of Phi Theta Kappa by offering a diverse group of advisors who bring knowledge and experience from a variety of disciplines. Again, Dr. Gavin's creative ideas have positively impacted the lives of her students.

Along with the 2003 New Jersey Professor of the Year award, Dr. Gavin has been the recipient of several honors including the Lindbach Foundation Award for Teaching Excellence, South Jersey Literacy Award for ESL Program Teaching and various grants, including a Presidential grant to work with Fort Dix Kosovar refugees.

In a Nation where higher education is vital to an individual's success, I applaud the hard work, energy, and expertise of our Nation's professors. Dr. Carole Gavin's successful career as a teacher, mentor and innovator is an inspiration to us all and I am proud to acknowledge her as New Jersey's Professor of the Year.●

TECHLINK—MONTANA STATE UNIVERSITY

● Mr. BURNS. Mr. President, today I commend TechLink, a technology transfer center at Montana State University, for its outstanding achievements. TechLink has been highly successful at helping both the Department

of Defense and NASA to develop, transfer, and commercialize new technology in partnership with industry.

Congress first appropriated funds in 1996 to establish TechLink as a pilot program. Since then, this program has exceeded all expectations. TechLink has established more than 250 partnerships between Federal laboratories and the private sector, including technology licensing agreements, cooperative R&D agreements, and contracts to small businesses for new technology development. These partnerships involve more than 50 different Federal research centers—including over 40 Department of Defense labs and all 10 NASA centers. TechLink has played a key role in linking the high-tech sector in the Northwestern United States with Federal laboratories nationwide. It has assisted more than 150 companies throughout the Northwest.

Beginning this last October, TechLink became a permanent part of the Department of Defense's technology transfer, transition, and acquisition activities. It is the only Department of Defense-wide technology transfer center serving the Army, Navy, Air Force, and various defense agencies. TechLink accounts for approximately one-fourth of all Department of Defense technology licensing agreements nationwide. It is playing a key role in transitioning innovative technology from Department of Defense labs and the private sector into commercial products that not only support our Nation's military and homeland security, but also contribute to national economic competitiveness and prosperity.

TechLink provides an outstanding return on investment. Partnerships that TechLink has established with industry are returning revenues and in-kind contributions to Department of Defense labs worth more than three times the Federal funds expended to support TechLink's activities.

As a result of its many innovations and achievements, the U.S. Department of Commerce recently recognized TechLink as one of 10 ''exemplary models'' nationwide of Federal technology transfer. I am proud to have played a key role in establishing TechLink, and wish this center the best in the years to come.●

MESSAGES FROM THE PRESIDENT

2003 NATIONAL MONEY LAUNDERING STRATEGY—PM 57

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

Consistent with section 29(a) of the Money Laundering and Financial Crimes Strategy Act of 1998 (Public Law 105–310; 31 U.S.C. 5341(a)(2)), enclosed is the 2003 National Money Laundering Strategy, prepared by my Administration.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 18, 2003.*

MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolutions, without amendment:

S. 1066. An act to correct a technical error from Unit T–07 of the John H. Chafee Coastal Barrier Resources System;

S. 1590. An act to redesignate the facility of the United States Postal Service, located at 315 Empire Boulevard in Crown Heights, Brooklyn, New York as the ''James E. Davis Post Office Building'';

S.J. Res. 18. Joint resolution commending the Inspectors General for their efforts to prevent and detect waste, fraud, abuse, and mismanagement, and to promote economy, efficiency, and effectiveness in the Federal Government during the past 25 years; and

S.J. Res. 22. Joint resolution recognizing the Agricultural Research Service of the Department of Agriculture for 50 years of outstanding service to the Nation through agricultural research.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1367. An act to authorize the Secretary of Agriculture to conduct a loan repayment program regarding the provision of veterinary services in shortage situations, and for other purposes;

H.R. 1648. An act to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District;

H.R. 1732. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes;

H.R. 2304. An act to resolve boundary conflicts in the vicinity of the Mark Twain National Forest in Barry and Stone Counties, Missouri, that resulted from private landowner reliance on a subsequent Federal survey, and for other purposes;

H.R. 3157. An act to provide for the designation of a department of Agriculture disaster liaison to assist State and local employees of the Department in coordination with other disaster agencies in response to a federally declared disaster area as a result of a disaster.

H.R. 3185. An act to designate the facility of the United States Postal Service located at 38 Spring Street in Nashua, New Hampshire, as the ''Hugh Gregg Post Office Building'';

H.R. 3198. An act to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes;

H.R. 3209. An act to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project;

H.R. 3217. An act to provide for the conveyance of several small parcels of National Forest System land in the Apalachicola National Forest, Florida, to resolve boundary discrepancies involving the Mt. Trial Primitive Baptist Church of Wakulla County, Florida, and for other purposes; and

H.R. 3353. An act to designate the facility of the United States Postal Service located at 525 Main Street in Tarboro, North Carolina, as the ''George Henry White Post Office Building''.

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

H. Con. Res 299. Concurrent resolution honoring Mr. Sargent Shriver for his dedication and service to the United States of America, for his service in the United States Navy, and for his lifetime fo work as an ambassador for the poor and powerless citizens of the United States of Ameirca, and for other purposes.

At 5:16 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

The message also announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2754) making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

At 7:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill (H.R. 2417) to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. GOSS, Mr. BEREUTER, Mr. BOEHLERT, Mr. GIBBONS, Mr. LAHOOD, Mr. CUNNINGHAM, Mr. HOEKSTRA, Mr. BURR, Mr. EVERETT, Mr. GALLEGLY, Mr. COLLINS, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. REYES, Mr. BOSWELL, Mr. PETERSON of Minnesota, Mr. CRAMER, Ms. ESHOO, Mr. HOLT, and Mr. RUPPERSBERGER.

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities: Mr. HUNTER, Mr. WELDON of Pennsylvania, and Mr. SKELTON.

The message also announced that the House disagree to the amendment of the Senate to the bill (H.R. 2673) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses theron; and appoints the following members as the managers of the conference on the part of the House: Mr. YOUNG of Florida, Mr. REGULA, Mr. LEWIS of California, Mr. WOLF, Mr. WALSH, Mr. HOBSON, Mr. BONILLA, Mr. KINGSTON, Mr. FRELINGHUYSEN, Mr. NETHERCUTT, Mr. LATHAM, Mr. GOODE, Mr. LAHOOD, Mr. OBEY, Mr. MURTHA, Mr. MOLLOHAN, Ms. KAPTUR, Mr. SERRANO, Ms. DELAURO, Mr. HINCHEY, Mr. FARR of California, Mr. BOYD, and Mr. FATTAH.

MEASURES REFERRED

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

H.R. 1367. An act to authorize the Secretary of Agriculture to conduct a loan repayment program regarding the provision of veterinary services in shortage situations, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 1648. An act to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District; to the Committee on Energy and Natural Resources.

H.R. 1732. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2304. An act to resolve boundary conflicts in the vicinity of the Mark Twain National Forest in Barry and Stone Counties, Missouri, that resulted from private landowner reliance on a subsequent Federal survey, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3157. An act to provide for the designation of a Department of Agriculture disaster liaison to assist State and local employees of the Department in coordination with other disaster agencies in response to a federally declared disaster area as a result of a disaster, to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3209. An act to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project; to the Committee on Energy and Natural Resources.

H.R. 3217. an act to provide for the conveyance of several small parcels of National Forest System land in the Apalachicola National Forest, Florida, to resolve boundary discrepancies involving the Mt. Trial Primitive Baptist Church of Wakulla County, Florida, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3353. An act to designate the facility of the United States Postal Service located at 525 Main Street in Tarboro, NC, as the ''George Henry White Post Office Building''; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 299. Concurrent resolution honoring Mr. Sargent Shriver for his dedication and service to the United States of America, for his service in the United States Navy, and for his lifetime of work as an ambassador for the poor and powerless citizens of the United States of America, and for other purposes; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR—NOVEMBER 17, 2003

The following bills were read the second time, and placed on the calendar:

S. 1862. A bill to provide certain exceptions from requirements for bilateral agreements with Australia and the United Kingdom for exemptions from the International Traffic in Arms Regulations.

S. 1863. A bill to authorize the transfer of certain naval vessels.

S. 1864. A bill to enhance the security of the United States and United States allies.

S. 1865. A bill to enhance the security of the United States and United States allies.

S. 1866. A bill to enhance the security of the United States and United States allies.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1875. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to extend the mental health benefits parity provisions for an additional year.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3185. An act to designate the facility of the United States Postal Service located at 38 Spring Street in Nashua, NH, as the ''Hugh Gregg Post Office Building.''

H.R. 3198. An act to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and where referred or ordered to lie on the table as indicated:

POM–315. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to danger pay and family separation allowances for members of the military in combat zones; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 130

Whereas, at this moment, our troops serving in harm's way are facing some of the most trying situations; and

Whereas, with the end of the fiscal year on September 30, supplemental pay increases approved for serving in combat zones expire without action by Congress to extend this as part of defense appropriations. Rates of imminent danger pay and family separation allowances had been raised by $75 and $150 respectively, effective October 2002. Rates for imminent danger pay and family separation allowances are scheduled to return to the prior levels on October 1, 2003; and

Whereas, the effects of a pay reduction on the brave men and women representing us in the war on terror and their families could be demoralizing. Forcing added sacrifices, especially on the families at home, is inappropriate: Now, therefore, be it

Resolved by the house of representatives, That we memorialize the Congress of the United states to maintain the current imminent danger pay and family separation allowances for members of the military in combat zones; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–316. A resolution adopted by the General Assembly of the State of New Jersey relative to the New Jersey National Guard; to the Committee on Armed Services.

ASSEMBLY RESOLUTION NO. 254

Whereas, the Department of Military and Veterans' Affairs supports Homeland Security in this State by preparing the New Jersey National Guard and providing specialized teams and training to emergency first responders; and

Whereas, there are more than 1,700 New Jersey National Guard troops on State and federal active duty involved in Homeland Security and Homeland Defense missions; and

Whereas, the New Jersey Army National Guard provides mobilized combat ready military units for deployment in State and national activations; and

Whereas, the New Jersey Army National Guard provides combat-ready airmen, aircraft and equipment for world wide deployment in support of United States Air Force objectives; and

Whereas, the department is responsible for training and equipping domestic emergency response teams in support of New Jersey's Homeland Security program; and

Whereas, the federal government has failed to establish a Civil Support Team in this State; and

Whereas, the United States Congress is responsible for appropriating funds to the New Jersey National Guard for the procurement of critical resources to be deployed in the effective execution of all assigned missions; and

Whereas, it is necessary to provide critical funding and equipment to the New Jersey National Guard: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. This House calls upon the United States Congress to provide funding and equipment to the New Jersey National Guard to support the Guard in the execution of all assigned missions.

2. This House urges the United States Congress to appropriate sufficient funds to the New Jersey Army National Guard to procure 464 High Mobility Multi-Purpose Vehicles to meet its authorized strength; continue the replacement of its helicopter fleet with UH–60 Black Hawk Helicopters; accelerate the procurement of AH–64 Apache Helicopters; replace the M113 Armored Personnel Carrier with Bradley Fighting Vehicles, and provide the armor division with deployable M1A1 tanks.

3. This House requests the United States Congress to appropriate sufficient funds to the New Jersey Air National Guard for the procurement of new Block 50/52/plus aircraft and for the upgrading of KC–135E refueling airframes.

4. This House further calls upon the United States Congress to establish and fully fund a Civil Support team in the State of New Jersey and to provide more and better protective clothing for team members and body armor for counter terrorism missions and to

appropriate capital construction funds for critical military construction projects, including the construction of a dedicated site for the arming and dearming of F–16 aircraft at the Atlantic City Air Base, the construction of the Consolidated Logistics and Training Facility at the Lakehurst Naval Engineering Station; and security enhancements at the McGuire Air Force Base.

5. Duty authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the Vice President of the United States, the Speaker of the United States House of Representatives, and to every member of Congress elected from this State.

POM–317. A resolution adopted by the General Assembly of the State of New Jersey relative to differential salary reimbursement for activated Reserve and National Guard members; to the Committee on Armed Services.

ASSEMBLY RESOLUTION NO. 283

Whereas, since September 11, 2001, tens of thousands of National Guard and Reserve members have been activated in the war against terrorism and in the conflict with Iraq; and

Whereas, to alleviate financial hardship for their activated employees, many states, counties and municipalities have generously opted to pay activated Reserve and National Guard members the difference between their regular salary and their military pay; and

Whereas, however, in these difficult economic times, many states, counties and municipalities are themselves suffering substantial budget deficits; and

Whereas, such a differential pay policy is helpful in recruiting and retaining Reserve and National Guard members; and

Whereas, given the crucial role Reserve and National Guard forces play in this nation's security, it is incumbent upon the federal government to assist state and local government employers in their efforts to alleviate hardship on these soldiers, sailors and aviators when they are activated: Now, therefore be it

Resolved by the General Assembly of the State of New Jersey:

1. This House calls upon the President and Congress of the United States to pass and enact legislation reimbursing state, county and municipal governments for differential salary payments made to members of Reserve and National Guard units activated in response to the September 11, 2001 terrorist attacks and the Iraq conflict.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the Unite States House of Representatives and every member of Congress elected from this State.

POM 318. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the age for receipt of military retired pay for nonregular service; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 271

Whereas, H.R. 742 has been introduced by Representative Jim Saxton to reduce the age for receipt of military retired pay for nonregular service from 60 to 55; and

Whereas, more and more military readiness and service are being contributed by Guard and Reserve service personnel, vis-a-vis Persian Gulf, Kosovo, Afghanistan and Iraq; and

Whereas, equity would indicate that Guard and Reserve service personnel should be treated fairly regarding their benefits and retirement pay; and

Whereas, the current law which withholds retirement pay until age 60 does not provide fair and actuarially realistic treatment: Now, therefore, be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress to pass H.R. 742; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–319. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to traffic stoppages at railroad crossings; to the Committee on Commerce, Science, and Transportation.

SENATE RESOLUTION NO. 134

Whereas, local communities have long tried to address the issue of minimizing traffic stoppages caused by trains traveling within their municipal borders. Slow trains moving through a community bring traffic to a standstill. Even worse, trains may sometimes stop completely, bringing an entire city to a halt and backing up road traffic for blocks in all directions. Commuters, shoppers, and even emergency vehicles can be trapped on the one side of a railroad track, unable to reach the other side for long periods of time; and

Whereas, the State Legislature provided local governments with the means to regulate the length of time that trains may permissibly halt vehicle traffic. The authority to levy fines on train companies that block traffic for too long held the promise of compelling railroad companies to work with local governments to minimize the disruption to lives and commerce that had become routine. Unfortunately, the courts have struck down this state law, arguing that only the federal government may regulate the speed and length of trains operating in the interstate commerce; and

Whereas, with local and state options to resolve this local problem foreclosed, it is imperative that the United States Congress exercise its authority to compel a reasonable solution at the federal level. Without Congressional attention, railroad companies will continue to ignore the concerns of local governments, businesses, and citizens who must cope with unreasonable traffic stoppages: Now, therefore be it

Resolved by the senate, That we memorialize the United States Congress to address the issue of traffic stoppages at railroad crossings; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the United States Senate Majority Leader, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–320. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to providing financial assistance to commercial airline companies; to the Committee on Commerce, Science, and Transportation.

HOUSE RESOLUTION NO. 331

Whereas, airline companies of this nation were required by the Federal Government to suspend operations for four days, September 11 through 14, 2001, for reasons of national security; and

Whereas, the aggregate estimates of daily lost revenues suffered by these companies during that four-day period range from $250 million to $500 million; and

Whereas, in the days since flights have been able to resume, cancellation of reservations has ranged between 20% and 40%, resulting in additional lost revenues to these companies, canceled flights and huge layoffs estimated at more than 100,000 employees; and

Whereas, US Airways, a major airline company in the Commonwealth of Pennsylvania, has announced that layoffs of approximately 20,000 of its employees have become necessary; and

Whereas, in the Pittsburgh region alone approximately 11,700 residents are employees of US Airways; and

Whereas, financially necessitated layoffs of airline employees in the numbers projected will have a profound impact on the national and State economies and on national security and should be prevented; and

Whereas, the health of the airline industry impacts so directly on our economic health and our national security that Federal and State financial assistance is desirable and imperative: Now, therefore, be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to pass and the President of the United States to enact legislation to provide the necessary financial resources to commercial airline companies headquartered in the United States and their employees and traded on a national stock exchange; and be it further

Resolved, That this Legislature and our Governor likewise promptly pass and enact a financial package to provide assistance to those national airline companies who do business in the Commonwealth; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to members of the Pennsylvania delegation of Congress, to the Governor of Pennsylvania and to the President pro tempore of the Senate of Pennsylvania.

POM–321. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to funding for home heating assistance; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 162

Whereas, for a variety of reasons, natural gas prices have risen significantly over the past year. These reasons include increasing demand for natural gas and declining production in both the United States and Canada. While this increase in cost has already exacted a toll in many areas of our national economy, the full impact has yet to be felt. This winter, when seasonal demand reaches its peak, costs are expected to strike a terrible blow to people who have had difficulties paying their home heating bills even before the recent increase in prices; and

Whereas, for many years, utilities and their customers have supplemented governmental programs through various heating assistance initiatives. However, public and private programs offering help to low-income families trying to heat their residences are already stretched thin. This winter's situation is expected to bring a crisis to many people, including the low-income seniors who will almost surely face difficult choices; and

Whereas, with summer prices of natural gas at near record highs, Michigan's Public Service Commission has warned that homeowners could expect increases of $30 a month or more if the winter is severely cold. Gas companies in Michigan and across the country are urging their customers to take steps to prepare for the winter's costs, including weatherization and budgeting. Another key part of dealing with this problem will be for

Congress to significantly increase funding available to help state programs for low-income residents; and

Whereas, there are discussions under way in Congress over proposals to address this issue, including increasing the authorization funding level for the Low-Income Home Energy Assistance Program to at least $3 billion. Clearly, such actions to bring home heating help are in order: Now, therefore, be it

Resolved by the senate, That we memorialize the President and the Congress of the United States to increase funding available for home heating assistance to cope with the rise in natural gas costs expected this winter; and be it further

Resolved, That copies of this resolution be transmitted to the Office of President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–322. A resolution adopted by the Board of Commissioners of Ferry County of the State of Washington relative to federal lands in Ferry County, Washington; to the Committee on Energy and Natural Resources.

POM–323. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to out-of-state solid waste; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 4

Whereas, in 1992, the United States Supreme Court, in Fort Gratiot Sanitary Landfill v. Michigan Department of Natural Resources, ruled that states could not regulate or ban the importation of solid waste because only Congress has the authority to regulate interstate commerce. Since that time, Michigan has become the dumping ground for increasing amounts of solid waste from outside of our state and, with large amounts of trash from Canada, from outside the country; and

Whereas, Michigan has become one of the largest recipients of improved solid waste in the country. Approximately 15 percent of all trash dumped in landfills in Michigan now originates elsewhere. The amounts have increased significantly in the past several years, and recent reports of a major contract with Ontario and of the closing of the nation's largest landfill in New York seem to indicate this situation will only become a bigger issue in the future; and

Whereas, several measures have been considered in Congress to address the issue of extending authority to states to regulate or ban out-of-state solid waste, including H.R. 1730; and

Whereas, accepting unlimited volumes of trash outside our state is a serious long-term commitment. Long after the money from the contract has been spent, there is a threat to the environment and an obligation to monitor sites to protect water and health. Clearly, any state accepting these long-term risks should be able to regulate what comes across state lines for disposal: Now, therefore, be it

Resolved by the senate, That we memorialize the Congress of the United States to enact legislation to give states the authority to ban out-of-state solid waste; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM 324. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to foreign municipal solid waste; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 12

Whereas, Michigan has long been frustrated in efforts to regulate solid waste imported into our state. Our state is especially concerned about waste that is brought here from Ontario. Our citizens feel strongly that our environment should not be placed at additional risk from municipal solid waste and other materials that are generated elsewhere and transported here for disposal; and

Whereas, the volume of waste that comes into Michigan each year represents a significant portion of all trash handled here. As much as 20 percent of all solid waste in Michigan is from out of state, and the amount has increased significantly in recent years; and

Whereas, Congress has authority for regulating the transportation and disposal of solid waste between states and nations by virtue of the United States Constitution's interstate commerce clause. To protect the health, safety, and welfare of our environment and citizens, Congress must take action to provide states with the express means to regulate or prohibit the importation of trash. Congress has before it now a bill that would provide the appropriate authority to the states. Under H.R. 382, which has been introduced by Michigan's Congressman Rogers, states could prohibit or impose certain limitations on the receipt of foreign municipal solid waste; and

Whereas, Congress is also considering H.R. 411, which would direct the Administrator of the EPA to carry out duties under the agreement with Canada on the transboundary movement of hazardous waste; and

Whereas, hazardous waste and solid waste transported between Canada and the United States are provided for in the Agreement Between the Government of Canada and the Government of the United States Concerning the Transboundary Movement of Hazardous Waste. It has been reported, however, that the notification requirements and procedures set forth in the agreement have not been followed. It is most disturbing to think that the protections provided in the agreement between our nations are not working. The people of this state have every right to know that all prudent measures are being enforced to protect our citizens and environment: Now, therefore, be it

Resolved by the senate, That we memorialize the Congress of the United States to enact legislation to authorize states to prohibit or restrict foreign municipal solid waste and to urge the Environmental Protection Agency to ensure full compliance with the Agreement Between the Government of Canada and the Government of the United States Concerning the Transboundary Movement of Hazardous Waste; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the Environmental Protection Agency.

POM–325. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to solid waste management decisions; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 167

Whereas, landfills and incinerators pose a variety of environmental risks to Michigan residents and our neighbors, from a potential to contaminate groundwater aquifers to the release of a variety of air pollutants; and

Whereas, certain items, such as used oil and batteries, increase significant health and safety risks if placed in disposal facilities; and

Whereas, banning recyclable or compostable items from our disposal facilities protects public health and the environment by prolonging the life of a landfill and minimizes the need for additional landfills, saving land resources and the other inherent risks of solid waste disposal facilities; and

Whereas, the reuse of recyclable materials reduces energy use and related negative impacts on our natural resources; and

Whereas, the reuse of recyclable materials reduces the demand for virgin materials. In some cases, the mining, collection, and processing of virgin materials can lead to degradation of our natural resources; and

Whereas, Michigan's recycling rates are significantly below average when compared to the region or national averages; and

Whereas, Michigan residents have chosen to spend considerable time and resources on diverting certain waste streams from solid waste disposal facilities such as beverage containers, yard waste, used oil, and scrap tires; and

Whereas, efforts to encourage people to recycle are undermined when residents do not see a link between their efforts to recycle materials and the extension of the usable life of area disposal facilities; and

Whereas, solid waste management is most effective when done on a local level where program implementation is conducted: Now, therefore, be it

Resolved by the senate, That is the sense of this legislative body that local units of governments need to be empowered to have greater control over solid waste management decisions; that the county level is the optimal planning unit of government due to the multi-jurisdictional nature of solid waste disposal facilities; that the state of Michigan should play a larger role in ensuring that products that Michigan residents have decided to divert from solid waste disposal facilities are not allowed in our facilities from other jurisdictions; and that the state of Michigan should support local units of governments in their efforts to provide alternative disposal mechanisms for those items banned from our solid waste disposal facilities; and be it further

Resolved, That we memorialize the Congress of the United States to enact legislation to extend to the states more authority for the management of solid waste; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 616. A bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes (Rept. No. 108–199).

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

S. 1561. A bill to preserve existing judgeships on the Superior Court of the District of Columbia (Rept. No. 108–200).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MCCAIN for the Committee on Commerce, Science, and Transportation.

*Louis S. Thompson, of Maryland, to be a Member of the Reform Board (Amtrak) for a term of five years.

*Floyd Hall, of New Jersey, to be a Member of the Reform Board (Amtrak) for a term of five years.

*Robert L. Crandall, of Texas, to be a Member of the Reform Board (Amtrak) for a term of five years.

*Jeffrey A. Rosen, of Virginia, to be General Counsel of the Department of Transportation.

*Kirk Van Tine, of Virginia, to be Deputy Secretary of Transportation.

*Elizabeth Courtney, of Louisiana, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2010.

*Elizabeth Courtney, of Louisiana, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring January 31, 2004.

*Cheryl Feldman Halpern, of New Jersey, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2008.

*Michael D. Gallagher, of Washington, to be Assistant Secretary of Commerce for Communications and Information.

Mr. MCCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDs on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nominations beginning Jeffrey L. Busch and ending John S. Welch, which nominations were received by the Senate and appeared in the Congressional Record on November 3, 2003.

Cost Guard nominations beginning William D. Adkins and ending Michael S. Zidik, which nominations were received by the Senate and appeared in the Congressional Record on November 3, 2003.

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

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BENNETT:

S. 1876. A bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; to the Committee on Energy and Natural Resources.

By Mr. ROBERTS:

S. 1877. A bill to amend the Food Security Act of 1985 to improve the enrollment of cropland into the conservation reserve program through the farmable wetlands program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM of South Carolina:

S. 1878. A bill to amend title II of the Social Security Act to preserve and strengthen the Social Security program through the creation of personal retirement accounts funded by employer and employee Social Security payroll deductions, to restore the solvency of the old-age survivors, and disability insurance programs, and for other purposes; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. ENSIGN, Mrs. MURRAY, Ms. SNOWE, Mr. DODD, Mr. KENNEDY, Mr. JEFFORDS, and Ms. CANTWELL):

S. 1879. A bill to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1880. A bill to establish the Special Blue Ribbon Commission on Chesapeake Bay Nutrient Pollution Control Financing; to the Committee on Environment and Public Works.

By Mr. ALEXANDER (for himself, Mrs. MURRAY, Mr. ENZI, and Mr. GREGG):

S. 1881. A bill to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. CORZINE, Mr. REED, and Mrs. CLINTON):

S. 1882. A bill to require that certain notifications occur whenever a query to the National Instant Criminal Background Check System reveals that a person listed in the Violent Gang and Terrorist Organization File is attempting to purchase a firearm, and for other purposes; to the Committee on the Judiciary.

By Mr. ENZI (for himself, Mr. BINGAMAN, Mr. THOMAS, and Mr. CRAIG):

S. 1883. A bill to amend the Public Health Service Act to provide greater access for residents of frontier areas to the healthcare services provided by community health centers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for Mr. KERRY):

S. 1884. A bill to assure a healthy American manufacturing sector, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for Mr. KERRY):

S. 1885. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for manufacturing businesses in the United States; to the Committee on Finance.

By Mr. DASCHLE (for Mr. KERRY):

S. 1886. A bill to amend the Small Business Act and the Small Business Act of 1958 to establish the National Office for the Development of Small Manufacturers, to increase the level of assistance available for small manufacturers, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. HATCH (for himself, Mr. LEVIN, and Mr. BIDEN):

S. 1887. A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. SCHUMER, Mr. GRAHAM of South Carolina, Mr. WYDEN, Ms. COLLINS, Mr. GRAHAM of Florida, and Mr. BAYH):

S. 1888. A bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SPECTER:

S. Res. 267. A resolution designating 2004 as ''The Year of Polio Awareness''; to the Committee on the Judiciary.

By Mr. GRAHAM of South Carolina (for himself, Mr. FRIST, Mr. LUGAR, Mr. BIDEN, Mr. MCCAIN, Mr. PRYOR, Mr. SANTORUM, Mr. DEWINE, Mr. KYL, Mr. WARNER, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. CORZINE, Mr. LIEBERMAN, Mr. CHAMBLISS, Mr. ALLEN, Mr. SPECTER, Mr. REED, Mr. BURNS, Mr. KENNEDY, Mr. LEAHY, Ms. LANDRIEU, Mr. COLEMAN, and Mr. BAUCUS):

S. Res. 268. A resolution to express the sense of the Senate regarding the deaths of 19 citizens of Italy in Iraq; considered and agreed to.

By Mr. BIDEN:

S. Con. Res. 82. A concurrent resolution recognizing the importance of Ralph Bunche as one of the great leaders of the United States, the first African-American Nobel Peace Prize winner, an accomplished scholar, a distinguished diplomat, and a tireless campaigner of civil rights for people throughout the world; to the Committee on the Judiciary.

By Mr. BIDEN:

S. Con. Res. 83. A concurrent resolution promoting the establishment of a democracy caucus within the United Nations; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 322

At the request of Mr. INOUYE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 322, a bill to amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from taxes on air transportation.

S. 641

At the request of Mrs. LINCOLN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 641, a bill to amend title 10, United States Code, to support the Federal Excess Personal Property program of the Forest Service by making it a priority of the Department of Defense to transfer to the Forest Service excess personal property of the Department of Defense that is suitable to be loaned to rural fire departments.

S. 684

At the request of Mr. SMITH, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 684, a bill to create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the United States Government

regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

S. 985

At the request of Mr. DODD, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1209

At the request of Mr. BENNETT, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1209, a bill to provide for the acquisition of property in Washington County, Utah, for implementation of a desert tortoise habitat conservation plan.

S. 1223

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

S. 1266

At the request of Mrs. CLINTON, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Wisconsin (Mr. KOHL) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 1266, a bill to award a congressional gold medal to Dr. Dorothy Height, in recognition of her many contributions to the Nation.

S. 1482

At the request of Mr. INOUYE, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1482, a bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1800

At the request of Mr. AKAKA, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1800, a bill to amend the Higher Education Act of 1965 to enhance literacy in finance and economics, and for other purposes.

S. 1813

At the request of Mr. LEAHY, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 1871

At the request of Mr. HATCH, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1871, a bill to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENNETT:

S. 1876. A bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, I rise today to introduce legislation authorizing the title transfer of certain features of the Provo River Project, UT, from the Bureau of Reclamation to non-Federal ownership. This title transfer will provide many benefits, both directly and indirectly, for both the local government and the Federal Government, including economic, environmental, recreational, and safety benefits.

The facilities to be transferred are the Provo Reservoir Canal and associated lands and structures, the Salt Lake Aqueduct and associated lands and structures, and a 3.79 acre parcel of land in Pleasant Grove, UT. The Provo Reservoir Canal is a large, open, mostly unlined, 21.5 mile long canal that was constructed by the United States in the 1940s. The water transported through the Provo Reservoir Canal is used principally for municipal and industrial purposes. The Salt Lake Aqueduct is a 41.7 mile long, 69 inch diameter pipe, constructed by the United States and completed in 1951. The Provo River Water Users Association recently constructed a $2 million office and shop complex on the Pleasant Grove property, without the use of Federal funds.

Title transfer will facilitate the use of tax-exempt bond financing and low-interest loan financing for needed improvements. Currently, there is no Reclamation program for rehabilitating aging Reclamation facilities. Federal ownership of the facilities to be improved prevents low interest loans by others. On the Federal level, the transfer would eliminate the demands on limited Reclamation resources for the administration of the Salt Lake Aqueduct and the Provo Reservoir Canal.

It is anticipated that following title transfer, needed improvements would be made. For example, the Provo Reservoir Canal will be enclosed to provide for the conservation of water, improved water quality and security, the construction of a public trail system on top of the canal, and to eliminate the hazards of an open unlined canal in an urban environment. The critical importance of eliminating the safety hazard of an open canal in an urban setting was recently reinforced by the tragic death of two young men who unfortunately were lured by the thrill of attempting a swim through the canal to the other end. The enclosure of the canal would eliminate this safety risk and hopefully prevent any others from making a similar mistake.

The transfer has significant local support, including Utah County, Salt Lake County, Sandy City, Salt Lake City, Lindon City, Draper, Pleasant Grove City, Orem City and American Fork City.

I look forward to working with the Metropolitan Water District of Salt Lake and Sandy, the Provo River Water Users Association, and all interested parties to make this title transfer a success.

By Ms. MIKULSKI (for herself, Mr. ENSIGN, Mrs. MURRAY, Ms. SNOWE, Mr. DODD, Mr. KENNEDY, Mr. JEFFORDS, and Ms. CANTWELL):

S. 1879. A bill to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards; to the Committee on Health, Education, Labor, and Pensions.

Ms. MIKULSKI. Mr. President, I rise to introduce the Mammography Quality Standards Reauthorization Act of 2003. I am pleased to be joined in introducing this bill by Senator ENSIGN and

our bipartisan cosponsors. This important bipartisan bill is about saving lives. That's what the Mammography Quality Standards Act (MQSA) does. Accurate mammograms detect breast cancer early, so women can get treatment and be survivors.

Mammography is not perfect, but it is the best screening tool we have now. I authored MQSA over ten years ago to improve the quality of mammograms so that they are safe and accurate. Before MQSA became law, there was an uneven and conflicting patchwork of standards for mammography in this country. There were no national quality standards for personnel or equipment. Image quality of mammograms and patient exposure to radiation levels varied widely. The quality of mammography equipment was poor. Physicians and technologists were poorly trained. Inspections were lacking.

MQSA set federal safety and quality assurance standards for mammography facilities for: personnel, including doctors who interpret mammograms; equipment; and operating procedures. By creating national standards, Congress helped make mammograms a more reliable tool for detecting breast cancer. In 1998, Congress improved MQSA by giving information on test results directly to the women being tested, so no woman falls through the cracks because she never learns about a suspicious finding on her mammogram. Now it is time to renew MQSA and lay the foundation to strengthen it even further.

The bill that I am introducing with Senator ENSIGN today is a bipartisan agreement to extent MQSA for two years while making two additional changes to certificates that facilities are required to have to perform mammograms. First, the bill allows the Secretary of Health and Human Services to issue a temporary renewal certificate for up to 45 days to a facility seeking reaccreditation, if the accreditation body has issued an accreditation extension and other criteria are met. This will help ensure that a facility is not forced to close its doors to women seeking mammograms, while it is completing its reaccreditation and the quality of mammography is not compromised.

Second, the bill allows the Secretary, at the request of an accreditation body, to issue a limited provisional certificate to a facility to enable a facility to conduct examinations for educational purposes while an onsite visit from an accreditation body is in progress. This certificate would only be valid during the time the site visit team from the accreditation body is physically in the facility and would not be valid longer than 72 hours.

The two year reauthorization of MQSA is important. It will give Congress an opportunity to consider in the next reauthorization expert recommendations from an Institute of Medicine (IOM) study and a General Accounting Office (GAO) report on several issues related to MQSA. I have been working with the Labor, Health and Human Services (HHS), and Education Appropriations Subcommittee to get these studies going since I included them in the Senate fiscal year 2004 Labor/HHS Appropriations bill. The HELP Committee also heard testimony in support of a two year reauthorization at the HELP Committee's April hearing on MQSA.

As I talked to advocacy groups about ways to improve MQSA, the need to improve the skills of doctors reading mammograms was brought to my attention. One study found that a woman has a 50 percent chance of getting a ''false positive'' reading from her mammogram over 10 years. I'm gravely concerned about reports that doctors miss about 15 percent of breast cancers on mammograms. I was also disturbed by a New York Times investigation last year. It found that some radiologists were missing alarming numbers of breast cancers because they lacked the experience or training they needed for the difficult task of interpreting the X-ray. These are reasons why I requested the hearing that the HELP Committee held in April on this issue. While I am disappointed that the HELP Committee was not able to reach agreement this year on a continuing medical education provision to address this issue, I look forward to Congress reexamining this issue once the IOM and GAO studies are completed.

The IOM and GAO will look at several important issues such as: ways to improve physicians' interpretation of mammograms; possible changes to MQSA regulatory requirements; ways to ensure the recruitment and retention of sufficient numbers of adequately trained personnel to provide quality mammography; how data currently collected under MQSA could be better used; and factors that led to the closing of mammography facilities since 2001. I look forward to working with my colleagues in Congress to examine the recommendations from these studies in 2005 and to consider further improvements to MQSA in its next reauthorization.

The HELP Committee will mark up this bill tomorrow. This legislation is supported by groups including the American Cancer Society, the Susan G. Komen Breast Cancer Foundation, the national Alliance of Breast Cancer Organizations, and the American College of Radiology Association. I strongly urge Committee passage and swift Senate passage of the bill later this week. I hope that the House will also expeditiously pass this bill. There are an estimated 212,600 new cases of breast cancer and an estimated 40,200 breast cancer deaths in the United States this year. Early detection and treatment are essential to reducing breast cancer deaths. Congress should pass this bill this year to reauthorize MQSA and extend this valuable program that helps save the lives of women and men with breast cancer. I ask unanimous consent that letters of support be printed in the RECORD.

AMERICAN CANCER SOCIETY,
November 18, 2003.

Hon. BARBARA MIKULSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MIKULSKI: On behalf of the American Cancer Society and its more than 28 million supporters, I would like to thank you, along with Senator Ensign, for your continued leadership in sponsoring the ''Mammography Quality Standards Act of 2003.'' As the largest national, community-based organization dedicated to eliminating the incidence and burden of cancer and improving cancer care, the Society strongly supports the reauthorization of the Mammography Quality standards Act of 1992 (MQSA) in the remaining days of this session.

In addition, we believe a two year reauthorization is appropriate at this time, as we continue to examine methods for mammography quality improvement. Currently, funding has been included in the LHHS Appropriation bill for the Institute of Medicine and General Accounting Office to study and recommend concrete improvement to MQSA. When the results of these studies are released, we look forward to again working with the Congress to further improve MQSA and ensure that women's access to high quality mammography continues.

The American Cancer Society, along with other professional societies and advocacy groups, was actively involved in the development of the 1992 MQSA law and its reauthorization in 1997, in an effort to further reduce deaths and disability from breast cancer. Mammography screening has led to earlier detection of breast cancer when it is in its most treatable stages, thereby providing a greater chance for life-saving treatments and a greater range of treatment options. Increasing utilization of mammography has been a major factor in the reduction of breast cancer deaths in the U.S. over the last decade. Based upon ongoing scientific evidence and improvements in technology, high-quality mammography continues to be the best available tool for the early detection of breast cancer. Therefore, the Society is honored to again lend our support to Congress in its commitment to ensure that women have access to high-quality mammograms.

The Society would like to commend you again for your leadership on this critical public health issue, and we look forward to continuing to work closely with you and the other cosponsors to ensure the enactment of this important legislation this year. If you or your staff have any questions, please contact Kelly Green Kahn, Manager of Federal Government Relations (202-661-5718).

Sincerely,

DANIEL E. SMITH,
National Vice President, Federal & State Government Relations.
WENDY K.D. SELIG,
Vice President, Legislative Affairs.

THE SUSAN G. KOMEN BREAST CANCER FOUNDATION,
November 17, 2003.

Re: Mammography Quality Standards Reauthorization Act of 2003

Hon. BARBARA MIKULSKI,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR MIKULSKI: The Susan G. Komen Breast Cancer Foundation supports your introduction of the Mammography Quality Standards Reauthorization Act of 2003, and we appreciate your leadership in ensuring patient access to quality breast health and breast cancer care.

Thanks to more than 75,000 volunteers dedicated to the fight against breast cancer, the Susan G. Komen Breast Cancer Foundation is a unique grassroots network with more than 100 Affiliates nationwide and internationally. Since its inception in 1982, Komen has raised nearly $600 million in furtherance of its mission—to eradicate breast cancer as a life-threatening disease by advancing research, education, screening and treatment. Komen dedicates millions of dollars annually towards scientific and community outreach projects. The Komen Foundation Research Program has awarded more than 850 grants, totaling more than $110 million for breast cancer research. In addition, Komen Affiliates have funded hundreds of non-duplicative, community-based breast health education and breast cancer screening and treatment projects for the medically underserved.

Early detection of breast cancer saves lives. Mammography screening remains the gold standard in the early detection of breast cancer. In the past decade, breast cancer mortality rates have declined in the United States. This is due, in large measure, to early detection and timely treatment. The MQSA establishes a national standard of mammography care. Since enactment of the MQSA, women throughout the country have gained further confidence in their mammograms, as well as in those individuals and facilities that provide services as part of screening for breast cancer.

The Komen Foundation wishes to lend our continued support to the efforts of you and your colleagues to ensure enactment of the Mammography Quality Standards Reauthorization Act, and we applaud your efforts in advancing an issue of utmost importance.

Very truly yours,

SUSAN BRAUN,
President and CEO.

NABCO®, NATIONAL ALLIANCE OF BREAST CANCER ORGANIZATIONS,
New York, NY, November 18, 2003.

Hon. BARBARA MIKULSKI,
U.S. Senate, Washington, DC.

DEAR SENATOR MIKULSKI: On behalf of the millions of women, families, professionals and providers served by the education and information programs of the National Alliance of Breast Cancer Organizations (NABCO), I am writing to express support of 2003 legislation to reauthorize the Mammography Quality Standards Act of 1992 (MQSA). We thank you and your Senate co-sponsors for advancing this legislation.

Since our organization's founding in 1986, NABCO has been a visible proponent of high-quality early detection of breast cancer. We have worked with Congressional leaders on measures to educate women about good breast health, and on provisions to improve screening coverage and reimbursement, and to eliminate barriers to early diagnosis. Without question, early detection followed by prompt, state-of-the-art care offers women the best chance for successful treatment, and high-quality, regular mammograms are the best available tool to detect breast cancer at its earliest, treatable stages.

The MQSA system of certification, inspection and accreditation established basic standards that have improved the quality of mammography in the United States. After working with Congress to craft this legislation, it was my honor to serve as a consumer representative on the FDA's initial MQSA Advisory Committee. Since 1992, breast cancer survival has improved markedly—in large part because more women have taken advantage of regular, high-quality screening mammograms, available nationwide. The current reauthorization provisions will further strengthen this system.

However, new approaches are needed to continue to improve the quality and efficiency of this test, reflect technology innovations, disseminate outcomes, and attract dedicated professionals to the breast imaging field. We hope that you will seek NABCO's ongoing help to identify ways that MQSA can better serve facilities, medical professionals and consumers. We commend you and your staff for your recognition that high quality, accessible mammography is vital to making progress in the fight against breast cancer. With your support, we can offer women confidence that if they have breast cancer, it is likely to be detected, and that mammography and imaging services in the U.S. will continue to improve in quality.

Very truly yours,

AMY S. LANGER,
Executive Director.

AMERICAN COLLEGE OF RADIOLOGY,
Reston, VA, November 17, 2003.

Hon. BARBARA MIKULSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MIKULSKI: On behalf of the 30,000 physician and physicist members of the American College of Radiology Association (ACRa), I would like to offer the College's full support for your introduction of legislation to reauthorize the Mammography Quality Standards Act (MQSA).

Since enactment of MQSA in 1992, women in the United States have gained confidence in the providers of their mammograms, through the knowledge that mammography facilities were being certified in accordance with federal standards. The successful collaboration of radiologists, mammography facility operators, federal and state regulators and consumer groups has produced significant improvements in the quality of mammograms nationwide. With the impending passage of this legislation, Congress and ACRa continue this legacy.

The technical corrections contained in this legislation will make sure that mammography facilities will not be closed due to administrative ''Catch 22's.'' Had these problems not been addressed, access by thousands of women seeking timely breast cancer detection and treatment may have been threatened. Furthermore, the Committee's willingness to work with the breast cancer community and consider incorporating the results of pending studies into the next reauthorization is truly appreciated and has the potential of improving the act even more.

The College looks forward to working with you and other interested parties to enact this legislation and thanks you for your leadership as we continue to improve the quality of mammography services throughout the country.

Sincerely,

E. STEPHEN AMIS,
Chairman, Board of Chancellors.

Mr. ENSIGN. Mr. President, I rise today to introduce, with my distinguished colleague from Maryland, Senator MIKULSKI, the Mammography Quality Standards Reauthorization Act of 2003. The purpose of this legislation is to reauthorize the Mammography Quality Standards Act in order to maintain access to high quality mammography services for every woman in America.

Breast cancer is the second leading cause of cancer deaths among American women. An estimated 211,300 new cases of invasive breast cancer are expected to occur among women in the United States in 2003. In my home State of Nevada alone, 1,400 new cases of breast cancer will be diagnosed in women, and an estimated 300 women in Nevada will die of breast cancer next year.

The MQSA was originally passed in 1992 to ensure that all women have access to quality mammography for the detection of breast cancer in its earliest, most treatable stages. Congress re-authorized MQSA in 1998, extending the program through 2002. Although MQSA was scheduled for reauthorization last Congress, we unfortunately failed to act.

The MQSA has had a positive impact on mammography quality. FDA inspection data continues to show overall facility compliance with the national standards to ensure the quality of x-ray images. Currently, over 98 percent of all mammography facilities pass the phantom image test during their facility inspection. MQSA remains as essential tool for early detection and for combating mortality associated with breast cancer.

The legislation I introduce today would reauthorize MQSA for 2 years, signifying Congress' commitment to extending the life of this important program. Reauthorizing the act for a shorter amount of time than previously done will allow Congress the time it needs to examine some serious issues facing the long-term effectiveness of the act while still maintaining vital quality standards in the interim.

In addition, this legislation would permit the Secretary of the Department of Health and Human Services to issue two additional and temporary certificates that will allow facilities who offer mammography services to continue to provide uninterrupted care while they go through the process of reaccredidation. This is important as we encourage more and more women to seek screening services each year.

With these significant changes, MQSA, I believe, will be more effective than ever. While we are improving the act with this bill, we need to tread carefully as we look to make further changes. Mammography, like every health discipline, is an imperfect science. On average, radiologists estimate that somewhere around 75 percent of cancer can be found through mammography. Thus, until the technology improves, the quality of the reading is limited.

We have to remember that in the medical field, human error is unavoidable. Most doctors practicing today are excellent at what they do, and placing additional regulations on them, especially in an already highly-regulated subspecialty, can often times do more harm than good. Congress needs to be increasingly vigilant in making sure that practices below acceptable standards are eliminated. To that end, one of the real benefits of MQSA is its required medical audit procedure which mandates that each FDA-approved facility has a system for following up on mammograms that reveal problems. In

other words, each facility performs a self-check on itself, helping to ensure quality care is being given.

The impact of medical liability on the radiological profession has been immense, leading to a shortage of quality doctors. As bad as it has been for the profession itself, the adverse effect it has had on patient access to care is intolerable. In places across the country, women are having to wait weeks, even months, to get a mammography screening. In a speech this February in Florida, the president of the American Medical Association stated that in a recent survey of Palm Beach, Miami Dade and Broward Counties, 7 of the 29 radiologists said they had stopped reading mammograms—and 8 others are considering that possibility. In addition, Orlando Regional Hospital reports that the average wait time for women seeking mammography rose from 20 days in 2000—to 150 days in 2002. The cause of all this is that many radiologists can't find or afford the necessary liability insurance.

The bottom line is that at a time when the medical liability crisis is hitting the industry harder than ever, the last thing the Federal Government should be doing is creating more avenues for abusive lawsuits. That is why Congress must balance the need to find ways to improve the quality and delivery of women's health, while at the same time preserving a positive and equitable medical environment for well-intentioned professionals to practice.

The MQSA has been an important program in increasing the quality of mammography services for women. I thank Senator MIKULSKI and HELP Committee Chairman GREGG for all of their hard work on this issue, and I look forward to seeing this legislation through to passage by the Senate and ultimately signed into law.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1880. A bill to establish the Special Blue Ribbon Commission on Chesapeake Bay Nutrient Pollution Control Financing; to the Committee on Environment and Public Works.

Mr. SARBANES. Mr. President, today I am introducing legislation to establish a special Blue Ribbon Commission on Chesapeake Bay Nutrient Pollution Control Financing. Joining me in sponsoring this measure are my colleagues Senators MIKULSKI, WARNER, ALLEN and SANTORUM.

On Tuesday, November 11, 2003, the Chesapeake Bay Foundation released its sixth annual State of the Bay report. The report is headlined ''The Bay's Health Remains Dangerously Out of Balance and Is Getting Worse.'' Indeed, this summer the Chesapeake Bay's so-called ''dead zone''—the area of oxygen-and life-depleted waters—extended more than 100 miles down the Bay, the largest area ever recorded. Scientists observed extensive algal blooms and watermen reported pulling up nets of dead fish and crab ''jubilees''—a rare phenomenon of crabs fleeing the water for air. The cause of the pollution of the Chesapeake Bay is clear: high levels of nitrogen coming from sewage treatment plants, air deposition, runoff from farmlands, and stormwater runoff from urban and suburban areas. The water pollution caused by high levels of nutrients, particularly nitrogen, continues despite two decades of efforts from all the jurisdictions in the watershed, Maryland, Virginia, Pennsylvania and the District of Columbia, to address it.

Scientists, State and Federal agencies and citizen advocates know what must be done to address the excessive nutrients which pollute the Bay's water. The 304 major sewage treatment plants in the watershed must be upgraded to reduce the nutrients coming into the Bay. Farmers must be given the best technology and resources to keep excess fertilizer and sediments out of the Bay. Air deposition must be reduced. And new financing mechanisms must be developed to help local governments control stormwater runoff.

Earlier this year, a Chesapeake Bay Commission report entitled The Cost of a Clean Bay, found a $9.4 billion gap in the resources needed to reduce nutrients and sediments in the Bay to levels sufficient to remove the estuary from the Environmental Protection Agency's list of impaired waters. While $9.4 billion seems like an enormous sum, we should remember that the health of Chesapeake Bay is vital not only to the more than 15 million people who live in the watershed, but to the Nation. It is one of our Nation's and the world's greatest natural resources covering 64,000 square miles within six States. It is a world-class fishery that still produces a significant portion of the finfish and shellfish catch in the United States. It provides vital habitat for living resources, including more than 3600 species of plants, fish and animals. It is a major resting area for migratory waterfowls and birds along the Atlantic including many endangered and threatened species. It is also a one-of-a-kind recreational asset enjoyed by millions of people, a major commercial waterway and shipping center for much of the eastern United States, and provides jobs for thousands of people. In short, the Chesapeake Bay is a magnificent, multifaceted resource worthy of the highest levels of protection and restoration.

On November 3, 2003, I was joined by the six Senators and 16 Members of the House of Representatives from the Chesapeake Bay watershed States, in a bipartisan letter to President Bush urging him to commit $1 billion to restoring the Bay's water quality. We pointed out to the President that, with a matching State funding requirement and proper targeting, these funds would provide a tremendous boost to the efforts to reduce nutrient pollution in the Bay and that this investment would pay big dividends in restoring the ecological and economic health or our nation's greatest estuary. We realize that this request is but a first step to bring to bear the necessary resources to accomplish the nutrient reduction.

The legislation which we are offering today represents the next step in the effort to close the $9.4 billion gap and help assure that the effort to reduce nutrient pollution in Chesapeake Bay will be focused properly and funded adequately for the long term. It directs the Administrator of EPA to establish a special Blue Ribbon Commission on Chesapeake Bay Nutrient Pollution Control Financing to oversee development of a comprehensive implementation plan to address the funding needs and/or regulatory requirements for reducing nutrient pollution loads in Chesapeake Bay sufficient to comply with Clean Water Act standards by the year 2010. The Commission is charged to address the appropriate responsibilities of the Federal, State and local governments in financing sewage treatment plant upgrades, agricultural and other nonpoint source runoff controls, and urban stormwater management. It is also directed to address the opportunities for enhancing the role of the private sector in financial support for nutrient reduction either directly or through public/private partnerships.

The Commission will have a vital role to play in Chesapeake Bay restoration. Through the work of the Chesapeake Bay Program and its partners, our scientific and technical understanding of what needs to be done to reduce excess nutrients going into the Bay serves as a model for the Nation. Yet these practices cannot be implemented without sufficient funding, and current estimates suggest that a doubling of nutrient reduction efforts to date will be required. The Commission is critically needed to explore responsibilities, opportunities and mechanisms for generating the financial backing needed to restore the Chesapeake Bay. Let me add that the economics of nutrient reduction is an issue faced by many regions of the country. Many of the recommendations of this Commission regarding the financing of sewage treatment plant upgrades, agricultural nutrient reduction practices, and stormwater and air pollution control could be transferred to for use elsewhere around the Nation.

It is our expectation that, in carrying out its functions, the Commission will draw upon the expertise of other Federal agencies, including the U.S. Department of Agriculture, the Army Corps of Engineers, and NOAA as well as State and local governments, academia and the private and non-profit sector and establish a multidisciplinary advisory panel to assist the Commission in preparing its report and recommendations. Valuable work is now being carried out by the Chesapeake Bay Program in a great number of areas including nutrient reduction,

oyster restoration, submerged aquatic vegetation, and environmental education to mention a few and it is not intended that the Commission be in any way a substitute for the Bay Program. Rather it is to support the work of the Bay Program by dissecting financial responsibilities into component parts—Federal, State, local and private and by addressing the funding and/or regulatory requirements of the work to be done to end the Bay's water pollution from too much nutrient loading.

Establishment of the special Blue Ribbon Commission on Chesapeake Bay Nutrient Pollution Control Financing will serve to kick start the critical work which must now be done to restore the Chesapeake Bay. It is supported by the Chesapeake Bay Foundation and the Chesapeake Bay Commission as evidenced by their letters. I ask unanimous consent that the two letters be printed in the RECORD. I urge my colleagues to support this measure.

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

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, November 17, 2003.

Hon. PAUL S. SARBANES,
SH–309 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SARBANES: I am writing on behalf of the Chesapeake Bay Commission to commend you on your efforts to direct the Environmental Protection Agency (EPA) to establish a special blue ribbon Chesapeake Bay Nutrient Pollution Control Commission. The Commission would examine how best to finance reductions in nutrient pollution sufficient to comply with Clean Water Act standards by the year 2010. It is the logical next step in our efforts to restore the nation's crown jewel estuary, the Chesapeake Bay.

Earlier this year, our members issued a report entitled The Cost of a Clean Bay. The report found a $9.4 billion gap in the resources needed to reduce nutrients and sediments sufficient to remove the Bay from the EPA list of impaired waters. While $9.4 billion seems like an enormous sum, we should remember that the health of Chesapeake Bay is vital not only to the more than 15 million people who live in the watershed, but to the nation. It is the world's largest, most productive estuary, with a worth estimated at nearly $1.2 trillion. The Bay restoration leads the world in devising new and innovative solutions to reduce nutrient and sediment pollution. If the Bay restoration fails, it speaks volumes for the fate of most water quality restoration projects, world-wide.

At this point, the partners in the Chesapeake Bay Restoration Program have a well fleshed-out game plan. The leaders know what needs to be done and have, for the most part, implemented policies that will support these efforts. The stumbling block is the lack of available funding or, in the absence of money, the identification of viable regulatory alternatives that can provide equitable solutions.

On November 3, 2003, you joined your colleagues in the Bay watershed in a bipartisan letter to President Bush urging him to commit $1 billion to restoring the Bay's water quality. You pointed out that, with a matching State funding requirement and proper targeting, these funds would provide a tremendous boost to the efforts to reduce nutrient pollution in the Bay and that this investment would pay big dividends in restoring the ecological and economic health of our nation's greatest estuary. We offer our strong support on this request. Furthermore, we believe that the blue ribbon panel is its perfect complement.

Your effort represents the next—and critical—step in the effort to close the $9.4 billion gap, ensuring that the nutrient reduction goals will be reached. We applaud you in your efforts and offer our assistance to you as you pursue the best next step for the Bay restoration effort.

Sincerely,

ANN PESIRI SWANSON,
Executive Director.

CHESAPEAKE BAY FOUNDATION
Annapolis, MD, November 18, 2003.

Hon. PAUL SARBANES,
United States Senate,
Washington, DC,

DEAR SENATOR SARBANES: We wish to express our support and enthusiasm for your effort to establish a special Blue Ribbon Commission on financing the control of nutrient pollution in Chesapeake Bay. Your continued leadership on behalf of the Chesapeake is most appreciated.

As you know, this summer the Chesapeake Bay experienced one of the worst ''dead zones'' in history. Fish kills, beach closings, and algae blooms were commonplace. Over the past twenty years, the monitoring stations of the Chesapeake Bay Program have revealed little to no change in key water quality parameters such as dissolved oxygen, clarity, and algae concentration. The fundamental challenge remains controlling nitrogen and phosphorus pollution to the Chesapeake and its tributaries.

Over the past several years, a number of different reports have documented the financial needs of meeting the goals of the Chesapeake 2000 Agreement. These reports conclude that water pollution control, in particular, will require the most significant financial investments. Key water pollution control needs include sewage treatment, municipal storm water, and agricultural runoff.

Your effort to establish a Blue Ribbon Commission appropriately focuses on the biggest financial challenges confronting the Chesapeake Bay. It includes a diverse membership, and it engages the signatories to the Chesapeake Bay Agreement in developing specific recommendations to meet the needs of the Bay. Importantly, your effort acknowledges that regulatory mechanisms can be used to internalize pollution control costs to minimize burdens on the region's taxpayers.

The Chesapeake Bay Foundation believes that a financial commission is a timely and appropriate response to a number of the difficult challenges confronting the region's policy makers. We are very supportive of your effort, and we welcome the opportunity to work with you to implement your ideas.

Thank you again for your leadership on behalf of the Chesapeake Bay.

Sincerely,

WILLIAM C. BAKER,
President.

By Mr. LAUTENBERG (for himself, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. CORZINE, Mr. REED, and Mrs. CLINTON):

S. 1882. A bill to require that certain notifications occur whenever a query to the National Instant Criminal Background Check System reveals that a person listed in the Violent Gang and Terrorist Organization File is attempting to purchase a firearm, and for other purposes; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, I rise to introduce some legislation I consider an emergency because it overrides a misguided policy that threatens our homeland security and exposes our Nation to more vulnerable terrorist attacks.

The legislation I am introducing today is called the Terrorist Apprehension Act, and it is cosponsored by Senators SCHUMER, FEINSTEIN, CORZINE, and REED of Rhode Island.

This bill directs the administration to do all it can to apprehend potential terrorists within our borders. Sometimes they do things that defy common sense and are simply hard to believe. This is one of the most outrageous disclosures yet.

We have found out if someone on a terrorist watch list—someone who is a potential threat to communities across the country—goes ahead, buys a weapon, applies for a permit to buy a gun, and that information is logged into the gun background check system, the Attorney General has ordered the gun background check system not alert or even be allowed to share critical information with law enforcement concerning the whereabouts of the terrorist—not to give it to the FBI or the ATF or any of the law enforcement agencies.

I have to say, this is a mind-boggling policy. We could have a nationwide lookout for a known terrorist within our borders, but if he obtained a weapon, got a permit approved, the Justice Department's current policy is to refuse to reveal any data that might be available for law enforcement officials.

It works this way: The subject is on a terrorist watch list. This is a formal thing. The person who is listed on a terrorist watch list—look out, this guy is bad news, and we do not want him to roam freely. He can go ahead and buy a gun under the rapid response network for a gun permit. The background check is done. Then it goes into a crime database, including the terrorist watch list. The FBI terrorist task force cannot get the information by virtue of this policy because by directive, the Attorney General has said this information should be protected. To me, the protection our citizens need overrides that of these people who are unwelcome to begin with. But nevertheless, once they are on the terrorist watch list, we don't want to give them a lot of courtesy, especially to buy a weapon.

In combatting terrorism, Attorney General Ashcroft has shown little concern for core civil rights. That all changes when it comes to gun rights. The Attorney General seems more interested in protecting the rights of terrorists to obtain guns than the protection of our citizens.

I know many gun support groups have said: Listen, the terrorists wouldn't buy a firearm on the legal market anyway. But evidence points to something otherwise.

An investigation by my staff revealed that since September 11, in somewhere between 13 instances and possibly as many as 21 times—and the reason for the disparity is the information comes from two different places, but it is at least 13 times and possibly as many as 21—a person on the terrorist watch list has attempted to or successfully purchased firearms. Imagine. The madness is that the person gets the firearm and the information is cut off here instead of being available to the FBI and other law enforcement people.

In addition, the terrorists know that our gun laws are weak. Found in the ruins of a terrorist training camp that was destroyed by U.S. missiles in Kabul, Afghanistan was a book called ''How Can I Train Myself For Jihad.'' The book discusses the ease with which weapons can be purchased in the United States in order to engage in terrorism.

The guns that terrorists have access to in our country can be devastating, such as the 50-caliber assault weapon which would take down a helicopter, as we may have seen. This is according to the Congressional Research Service. That weapon can penetrate 6 inches of steel plating and has a range of a mile. One has to ask: Why is it available at all on the civilian market?

On this issue of terrorist access to weapons, it is peculiar, at least, to know that Attorney General Ashcroft's position is at odds with the Department of Homeland Security. During his confirmation earlier this year, Secretary Tom Ridge acknowledged to me in a question publicly that the link between access to guns and terrorism is a dangerous one.

Under oath at another hearing, the general counsel of the Department of Homeland Security told me it was his belief that someone on the terrorist watch list should not even be permitted to purchase guns.

Not only does the Attorney General think it is OK to allow these guns to be purchased by terrorists, but he thinks it should be done secretly, without law enforcement's knowledge. That has to change. We hope the Attorney General will reverse course immediately. Unfortunately, I doubt he even comprehends the anomaly this generates.

This is why it is critical that the Senate pass this emergency legislation before we leave for the year. If we don't, we will put our constituents at risk unnecessarily. My legislation is simple and to the point. It says, if a terrorist buys a gun, law enforcement must be notified right away. We would like to prevent them from getting the gun, but the law, as it is for now, is the FBI, the local police, and the regional terrorist task force must be told the time and the place of purchase.

I introduce this bill today and hope that we can pass it as soon as possible.

By Mr. ENZI (for himself, Mr. BINGAMAN, Mr. THOMAS, and Mr. CRAIG):

S. 1883. A bill to amend the Public Health Service Act to provide greater access for residents of frontier areas to the healthcare services provided by community health centers; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce legislation that would increase the likelihood that citizens who live on the American frontier and in other sparsely populated areas will have access to affordable healthcare in their communities.

Since my election to the Senate in 1996, one of my goals has been to educate folks in Washington about what life is like in the West.

Obviously there are rural areas along the East and West Coasts and in the Midwest. But people who live in these places are always surprised when they travel for the first time to places like my home State of Wyoming. They are amazed at just how rural Wyoming is.

Well, Wyoming is more than rural. Most Wyomingites live in the remaining stretches of the American frontier. Now, that's not to say that there aren't plenty of sparsely populated areas elsewhere, even in coastal States. There are many places outside the West that share the characteristics of the frontier. But almost all of Wyoming is sparsely populated. In fact, more people live in the 68 square miles of the District of Columbia than live in the 98,000 square miles of Wyoming.

People who live on the frontier and other sparsely populated areas face some unique challenges, and one of those challenges is access to affordable healthcare. People who live in frontier areas are more likely to lack health insurance than other rural and urban citizens. Also, frontier areas generally do not have population centers that can support the full range of healthcare services available in most urban and some rural areas.

One of the proven ways of improving healthcare in medically underserved areas is through the establishment of federally qualified community health centers, or CHCs. Community health centers are not-for-profit providers of health care to the working poor, the uninsured, and other vulnerable populations. These safety-net providers served ten million people across America in 2001.

Community health centers deliver preventive and primary care to patients regardless of their ability to pay. Almost half of the patients treated at community health centers have no insurance coverage at all. Community health centers set their charges according to income, and they do not collect any fees from their poorest clients.

President Bush has proposed major increases in funding for the establishment and expansion of community health centers, and Congress has begun to provide that funding. Senators across the political spectrum agree that community health centers play an important role in providing health services to the uninsured and underinsured in many medically underserved areas. We all agree that we ought to encourage the development of more sites where those in need but without means can get proper care.

Unfortunately, many frontier areas do not have community health centers. Wyoming, for example, only has one CHC, located in Casper. That center just opened a satellite clinic in Riverton, a town of 9,300 people almost 125 miles away, so now we have two sites.

The Federal Government keeps statistics on the degree of ''health center penetration into the unserved.'' In other words, we keep track of what percentage of those who need access to affordable healthcare can get adequate service through community health centers.

In Wyoming, only 7.9 percent of the unserved had reasonable access to community health center services, based on 2001 data. Lest you think this is just a Wyoming problem, Mr. President, let me share some percentages from other states: Alabama: 15.9 percent; Georgia: 8.9 percent; Indiana: 10.1 percent; Kansas: 10.4 percent; Louisiana: 4.3 percent; Maryland: 15.8 percent; Nebraska: 5.3 percent; Nevada: 7.8 percent; North Carolina: 11.1 percent; Oklahoma: 7.8 percent; Texas: 9.0 percent; and Virginia: 12.2 percent.

Why are these access figures so low? It's not because communities aren't interested in helping their less fortunate neighbors. It's because many communities on the frontier and in other sparsely populated areas can't even apply for community health center funding.

Why can't they apply? Well, believe it or not, the Federal Government doesn't consider many isolated communities to be located in ''medically underserved areas.'' And a community has to be designated as being a ''medically underserved area'' before one can even apply for CHC funding.

The barrier for frontier communities lies in the index that the Federal Government uses to determine ''medical underservice.'' That index looks at four factors: the percentage of people over 65 years of age, and the ratio of primary-care physicians per 1,000 people.

Using these four factors, the agency has calculated that only four Wyoming's 23 counties qualify to be ''medically underserved areas.'' I find this interesting, since Wyoming ranks 46th out of the 50 State in terms of physician-to-population ratio.

I have an idea about the source of this contradiction. When I went to accounting school, one of the things I learned about was a concept called ''statistical validity.'' What I learned was that the statistical validity of a sample is a function of sample size: in other words, the larger the sample, the more accurate the results associated with the sample.

Well, as you can imagine, sparsely populated states like Wyoming offer

less statistically valid samples than other states. Many of our counties score very well on factors like infant mortality. Take Western County, for instance. Weston County has a very low infant mortality rate—in fact, their rate in 2002 was zero. But there were only 59 births in Weston County. Now I'm happy to see that statistic, but it really hurts Weston County's score on the agency index.

Even looking at 5 years of data in sparsely populated counties doesn't provide a statistically valid sample. From 1994 to 1998, Weston County's infant mortality rate was 8.5 per 1000 births, slightly above the national average. From 1995 to 1999, Weston County's rate jumped to 14.7 percent—nearly twice the national average.

Why did the infant mortality rate jump so dramatically in Weston County? The only difference was that in 1999, two of the 60 babies born in the county died soon after birth.

When two deaths have such a dramatic impact on the infant mortality rate, it's because the sample size simply isn't large enough to provide a valid result. Slight variations in small samples can result in huge differences when translated into statistical data. And in my opinion, we shouldn't be making decisions based on statistics that aren't valid indicators of the healthcare status of a community.

I am concerned that the Federal definition of ''medically underserved areas'' does not recognize the unique nature and needs of people who live in the sparsely populated areas of our country. This makes me concerned that frontier communities are going to miss out on a great opportunity to participate in our national expansion of community health centers.

That's why I'm joining today with my distinguished colleagues Senators BINGAMAN, THOMAS, and CRAIG to introduce the Frontier Healthcare Access Act. We believe that people who live on the frontier and in other sparsely populated areas ought to have a fair shot at competing for federal support as we grow the community health center program.

Our bill would automatically deem ''frontier areas'' to be eligible for Federal funding for the development and expansion of community health centers.

The bill would require no new funding—it would simply designate frontier communities as special populations eligible for federal CHC support. Nor would the bill create a new preference for frontier areas—it would simply allow frontier communities into the competition for funding. The bill would end the application of a statistical formula that doesn't provide a valid assessment of need in sparsely populated areas—but it would still require frontier communities to compete with other communities to receive federal CHC support.

The Frontier Healthcare Access Act also would direct the Federal Government to create a new definition of ''frontier area.'' The bill would require that the new definition go beyond the traditional population-density approach to include important factors like distance in miles and travel time in minutes to the nearest significant healthcare service area or market. This is important, because defining frontier solely by population overlooks some important considerations.

For example, in some large counties, the presence of a city in one corner skews population density and overshadows the existence of many large frontier areas. Furthermore, a key component to frontier life is distance. Even areas with population density as high as 20 people per square mile should be considered frontier if the community is located far from the closest significant service center or market.

The National Rural Health Association and the Western Governors Association have already endorsed a definition using the factors proposed by the Frontier Healthcare Access Act. If the federal government adopts a similar definition, it would ensure eligibility for community health center development and expansion for about ten million citizens who live in more than 800 counties located in 38 states—not just the frontier West.

Mr. President, people in hundreds of cities and towns across the country have access to affordable healthcare services through community health centers. People who live in sparsely populated areas ought to have a fair opportunity to create the same sort of access.

The Frontier Healthcare Access Act would create this opportunity for people who live in isolated communities across our great country. I hope that my colleagues will join me in making this opportunity possible for our citizens who live in every part of our remaining American frontier—whether the buffalo still roam there or not.

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

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

S. 1883

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 ''Frontier Healthcare Access Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

Congress makes the following findings:

(1) People who live in frontier areas are medically underserved and face unique challenges in accessing affordable healthcare.

(2) People who live in frontier areas are more likely to lack health insurance than other rural and urban citizens.

(3) Frontier areas generally do not have population centers that can support the full range of healthcare services available in most urban and some rural areas.

(4) Community health centers play an important role in providing health services to many medically underserved areas and populations.

(5) Many frontier areas do not have community health centers.

(6) Many frontier areas cannot currently qualify for community health centers because the Federal definition of medically underserved areas or populations does not appropriately or effectively recognize the unique nature and needs of frontier areas and those who live in them.

(7) Any definition of frontier areas for purposes of eligibility for Federal or State healthcare programs should look beyond simple measures of population density to consider such factors as the distance from and travel time to the nearest significant healthcare service center or market.

(8) President George W. Bush has made the development of new community health centers a priority of his administration.

(9) People who live in frontier areas should be included explicitly in this expansion of the community health center program.

(b) PURPOSE.—It is the purpose of this Act to provide greater access for residents of frontier areas to the healthcare services provided by community health centers.

SEC. 3. FRONTIER COMMUNITY HEALTH CENTERS.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) in subsection (a)(1), by striking ''and residents of public housing'' and inserting ''residents of public housing, and residents of frontier areas'';

(2) by redesignating subsections (j), (n), (o), (p), (q), (r), (s), (q), and (s) as subsections (k), (l), (m), (n), (o), (p), (q), (r), and (s), respectively; and

(3) by inserting after subsection (i), the following:

''(j) RESIDENTS OF FRONTIER AREAS.—

''(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to areas identified under paragraph (3)(B).

''(2) SUPPLEMENT NOT SUPPLANT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in-kind contributions for the delivery of services to the population described in paragraph (1).

''(3) DEFINITION.—

''(A) IN GENERAL.—In this subsection, the term 'frontier area' means a county or a rational area identified by the Secretary in consultation with appropriate State offices of rural health.

''(B) REGULATIONS.—The Secretary shall through regulations develop a definition to identify frontier areas and shall designate residents of such areas as medically underserved for purposes of this section. In developing such definition the Secretary shall consider factors such as population density, distance in miles from the nearest significant healthcare service center or market, and travel time in minutes from the nearest significant healthcare service center or market.''.

By Mr. DASCHLE (for Mr. KERRY):

S. 1884. A bill to assure a healthy American manufacturing sector, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for Mr. KERRY):

S. 1885. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for manufacturing businesses

in the United States; to the Committee on Finance.

By Mr. DASCHLE (for Mr. KERRY):

S. 1886. A bill to amend the Small Business Act and the Small Business Act of 1958 to establish the National Office for the Development of Small Manufacturers, to increase the level of assistance available for small manufacturers, and for other purposes; to the Committee on Small Business and Entrepreneurship.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, I come to the floor today to introduce three bills to address the growing needs of small manufacturers, to stimulate the manufacturing sector of our economy, and to put back to work the millions of American workers in the manufacturing sector that have lost their jobs in the past 3 years. The three comprehensive bills are: the Manufacturing Assistance, Development and Education (MADE) in America Act, the Enhance Domestic Manufacturing and Worker Assistance Act, and the Manufacturing Jobs Production Act.

It's no secret that during the past 3 years, manufacturing employment in the United States has declined from 17.3 million to 14.6 million jobs. This loss of manufacturing jobs represents a loss of more than one in every seven such jobs. Over the past 3 years, the United States has lost an average of 80,000 manufacturing jobs a month. The States that rely the most on their manufacturing sector have suffered the most during the past 3 years. Indiana has lost 67,000 manufacturing jobs, California—297,000, Ohio—152,000, Illinois—126,000, Michigan—127,000, Pennsylvania—133,000, South Carolina—55,200, and North Carolina—145,300. Even in my home State of Massachusetts, we have lost approximately 80,000 manufacturing jobs since January 2001.

The loss of manufacturing jobs is of great concern because the manufacturing sector is more important than any other sector in supporting overall economic growth, technological innovation, and a high standard of living for Americans. Over the past 10 years, manufacturers have performed nearly 60 percent of research and development in the United States and have paid over one-third of all corporate tax payments to State and local governments.

Further, replacing manufacturing jobs with service sector jobs will not help stabilize the American economy. According to a University of Michigan study, 6.5 spin-off jobs are created as a result of every new job created in manufacturing. Service sector jobs simply cannot generate that type of economic activity. The benefits of manufacturing can also be found in national salary averages. In 2001, salaries and benefits averaged $54,000 in the manufacturing sector, while the average salary and benefits package in the private sector overall was only $45,600.

In 1955, manufacturing jobs were 30.5 percent of all U.S. employment, today they make up just 14 percent. The manufacturing decline has been marked by a relocation of factories abroad along with reduced exports and increased imports of manufactured goods. Both large and small companies have been affected and a continued shrinking of the manufacturing base may shift the manufacturing innovation process to other global centers and most certainly result in a decline in U.S. living standards.

As a member of the Finance and Commerce committees and ranking member of the Senate Committee on Small Business and Entrepreneurship, I have been fighting for the creation of new manufacturing jobs during debate over the President's tax cuts, and I will continue to do so in the months ahead. President Bush has done nothing to address the loss of manufacturing jobs, and many communities across the country are suffering because of it, as more and more plants close and more and more jobs move overseas. This administration is indifferent to these changes, and the pain being felt in million of American households, and that's unacceptable.

In fact, indifferent may be too kind a word. The Bush administration has been downright cruel to working Americans, pursuing billions of tax cuts for the most well-off in our society as their only economic policy, while millions of hard-working Americans have lost their jobs and will be left with the bill from this administration's reckless fiscal policies. In fact, you could argue that the manufacturing jobs picture is actually worse than the hard numbers tell us. While many estimates show that 2.5 million manufacturing jobs have been lost since President Bush took office, in previous postwar recoveries, manufacturing employment had recovered by this point in the business cycle and risen by more than 5 percent. Under the Bush presidency, manufacturing employment has continued to deteriorate steadily, falling so far by 8 percent. Morgan Stanley's respected economists tell us that the difference represents 2.1 million additional manufacturing jobs. More supply-side, trickle-down, ideologically driven tax cuts are not going to turn this around. Congress needs to take action and pass some policies that are meaningful to people, and will actually create jobs, and soon.

The President and his followers insist that his tax cuts are starting to work, basing their claims on a couple of months where the overall job creation numbers were positive. But the truth is that the meager job gains of the last three months have done little to lift most parts of the economy because nearly 80 percent of those small gains have come in just three sectors: government, temporary staffing, and education and health services. Manufacturing is not yet on the mend, and people who are finding new jobs are finding jobs at lower pay. We need to take action.

Small-business owners have made it clear to me, to Congress, and to the administration what actions are needed to reinvigorate the manufacturing sector. Unlike the Bush administration, which has ignored these requests for help, Congress must have the courage to make the tough decisions and not simply pander to wealthy Americans and giant corporations with unbalanced tax cuts. The Nation's gross domestic product may be temporarily up, but manufacturing jobs are still way down. To get those jobs back, and to continue competing on the international stage, our manufacturers, particularly our small manufacturers, need adequate representation and leadership at all levels of government, here and abroad. They need a well-educated, highly skilled, productive labor force; Federal contracting and subcontracting opportunities; greater access to capital; foreign patent protection; trade adjustment, global marketing, and entrepreneurial development assistance; and responsible, targeted tax credits. This legislation addresses those needs, while the President's tax cuts continue to undercut them.

Mr. President, we often receive complaints that the Federal and State small business programs duplicate, rather than complement, each other. While the SBA has stated that it has sufficient systems and programs in place to address the concerns of manufacturers, statistics on small manufacturers, as well as the business owners themselves, prove otherwise. Many state that accessing these programs is often confusing and difficult because they are fragmented, spread out and not tailored to bridge gaps found between State and Federal assistance programs. To address these problems, my bill will create the National Office for the Development of Small Manufacturers at the Small Business Administration, led by an associate administrator. This new office will be responsible for coordinating and strengthening existing programs, as well as establishing new SBA programs to address the needs of small manufacturers and to promote programs throughout the Federal Government that assist small- and medium-size manufacturers. While the President has established a ''new'' manufacturing czar at the Department of Commerce, this action is seen as lateral movement and does nothing to assist those manufacturers that are suffering the most, the Nation's small business manufacturers.

Once established, the National Office for the Development of Small Manufacturers will be responsible for implementing a Manufacturing Corps through block grants to each State that will address the skilled worker crisis in this country by promoting technical education pertinent to the manufacturing sector. First, the Manufacturing Corps would help current manufacturing workers improve their

skill set and advance their technical abilities. Each State's grant would ultimately provide small manufacturers with more highly skilled workers—something that the industry has posed as a global competitive disadvantage—and allow the unemployed and those in declining industries to make the pivotal move back to work or to other manufacturing sectors, respectively.

Second, the Manufacturing Corps would help small manufacturers fill their skilled labor needs by encouraging college and university students studying engineering, computers, and other high-tech fields to work in the small manufacturing sector by offering to repay a portion of their student loans if they do so for a specified period of time. Similar to incentives for students going into the nonprofit or government work, the government would repay the loans of those who commit to working for a small manufacturer for 4 years following graduation if their annual employment compensation does not exceed $60,000.

Third, the Manufacturing Corps would establish a vocational and technology training for students at the high school level to prepare students who are not planning to attend college directly after graduation to enter the manufacturing sector. As in woodshop or auto shop courses, high school students will learn the technical skills to become effective, skilled manufacturing employees, such as machinists or metal workers. Additionally, schools providing such assistance would partner with community manufacturers to address their skilled worker needs and to provide employment opportunities for students after graduation.

Another duty charged to the National Office for the Development of Small Manufacturers is to create a government-wide ''One Stop Small Manufacturing Shop'' for small manufacturers. This online web portal will serve as the single point of contact for information on entrepreneurial development assistance, access to capital, specific outreach programs, contracting opportunities, and R&D projects. We already have successful programs that can be used as a prototype for the web page such as the National Industrial Manufacturing Assistance Program's Web site at the Office of Industrial Technologies at the Department of Energy.

The greatest challenge to small businesses, as with all businesses, is the ability to obtain contracts. The BusinessLINC program within the SBA has been proven, since its inception, to successfully match small businesses with potential clients. The teaming model has created thousands of jobs and millions of dollars in contracts. The BusinessLINC–M program will also team small businesses with non-governmental organizations that can have a direct impact on their bottom-line through contracting or mentoring. There is a great potential for the BusinessLINC–M program to match suppliers with distributors, offer contracting and subcontracting opportunities, which directly benefits the local economy while allowing access to vendors in the distributors' backyards. The National Office for the Development of Small Manufacturers will create a similar program to foster symbiotic partnerships between small and large businesses to spur contracting opportunities. This BusinessLINC–M program would instead match up small manufacturers with larger firms that could utilize their products, creating subcontracting opportunities and a stronger supply chain.

Finally, the National Office for the Development of Small Manufacturers will develop a manufacturing mentor-protégé program to focus on improving the management practices, domestic and foreign marketing abilities, efficiency, and product development of small manufacturers by pairing them with larger, more experienced manufacturers that would provide such guidance.

One of the first things we can do to help small manufacturers is to tailor the SBA's loan and venture capital programs so that they offer small manufacturers affordable, long-term financing in amounts that are truly appropriate for them. This legislation will assist small businesses with fixed-asset costs, working capital, loan dollars to help them export what they have produced in the United States, and venture capital investments to spur expansion and growth.

To provide that capital, we have increased the loan amounts available to small manufacturers, increased venture leverage, and allowed refinancing of certain existing business debt. The maximum 504 loan, for equipment and property, will be raised from $1 million to $4 million, the maximum microloan will be raised from $35,000 to $50,000, and the gross loan amount for 7(a) working capital loans will increase from $1 million to $4 million for small manufacturers.

Investors should be encouraged to devote more of their money to the fastest growing small manufacturers. The SBIC program can provide that venture capital money. Under this bill, if SBICs invest 50 percent in small manufacturers, then a single fund can leverage $150 million instead of $115 million and a manager with several SBICs can leverage $185 million from the SBA. The legislation also restores and increases funding to establish additional New Markets Venture Capital firms and increases the SBA's leverage against private funds raised in the New Markets Venture Capital program from 150 percent to 200 percent so these venture capital firms can invest more in small manufacturers.

For growing small businesses using the loans from the 504 program to buy new equipment or buildings, we raise the limit for lenders so that they must create or retain one job for every $100,000 loaned to manufacturers. This is in place of the $35,000 that is currently in place. For non-manufacturers, it will be raised to $50,000. For manufacturers, the costs of retaining jobs are higher, and we want these jobs to be good living wages and not the $3 per hour or lower that exists in some countries.

After a natural disaster, the already slumping manufacturing industry faces an even greater challenge in returning business to normal and affording the costs of repair. Recognizing that they face these problems, the MADE in America Act changes several provisions to the SBA's disaster loan program. It increases the maximum loan size from $1.5 million to $5 million; allows small manufacturers to consolidate debt by refinancing not just existing disaster loans but any outstanding business loan; waives the principal and interest payments for 6 months; authorizes the administration to waive unreasonable size limitations; and prohibits the SBA from selling all disaster loans to other creditors. Disaster loans, at the most, have an interest rate of 4 percent and terms of up to 30 years. This low rate and long term keeps manufacturers' payments down as well as their debt, particularly when they refinance their more expensive business loans.

To help small manufacturers and small R&D firms, we need to reduce trade barriers, so that they are able to sell their products and technologies in other countries. Small-business owners commonly cited the expense required to secure foreign patent protection as a significant barrier to their ability to operate in international markets. Part of encouraging the spread of their innovations into other countries is decreasing their vulnerability to big foreign corporations that can take their ideas when they try to sell their products around the world. Our small businesses need patent protection. However, the costs associated with filing such patents are often prohibitively expensive.

For example, Mr. Clifford Hoyt, who is vice president and chief technology officer of Cambridge Research and Instrumentation, testified on June 21, 2001, as part of the Committee's hearing on reauthorization of the STTR program that cost of ''patent protection in Europe is $20,000.'' Information from the American Intellectual Property Law Association's meeting shows that the costs of foreign patents range from $7,200 in Canada to $27,200 in Japan. Those costs include fees for filing, examination, translation and attorneys.

With this legislation, to address the intellectual property problem for small exporters, I propose enacting a variation of a bill I introduced 2 years ago. The MADE in America Act would establish a self-sustaining grant fund to help small manufacturers and R&D firms pay for the cost associated with foreign patent protection. Each company would be limited to one grant and, in order to be eligible for the

grant, it must have already filed for patent protection in the United States. Both of these provisions are designed to ensure, to the extent possible, that companies apply for assistance for their most promising technology and therefore are in the best position to return money to the grant fund when their patented technology becomes profitable. By giving the companies only one shot at a grant to protect and make money from their technologies, it forces them to select the one most likely to succeed and have sales. At the same time, requiring companies to have already filed for patent protection in the United States prior to seeking a foreign patent grant is a gauge of the company's confidence in the commercial potential of its technology.

Ultimately, the goal is to create a self-sustaining grant fund. To do so, in return for the grants, each recipient would be obligated to pay 5 percent of its related export sales or licensing fees to the fund, to be known as the ''Small Business Foreign Patent Protection Grant Fund.'' To maintain a reasonable incentive for the small businesses, the total amount recipients would be required to pay would be capped at four times the amount of the grant, which for a $25,000 grant would be $100,000.

When I first introduced this bill a couple of years ago, the grants were limited to companies that participate in the SBA's SBIR and STTR programs. However, this bill opens the grant funding to all small firms, while reserving 50 percent of the money for SBIR and STTR firms through the first three quarters to each year. Intellectual property protection is critical to these small firms that have a great product or invention, and keeping these innovations in the hands of American firms is important to the U.S. economy.

Mr. President, today I am also introducing the Enhance Domestic Manufacturing and Worker Assistance Act. America's manufacturing decline and the associated loss of good, stable manufacturing jobs has been marked by a relocation of factories abroad along with reduced exports and increased imports of manufactured goods. This legislation will respond to the manufacturing crisis in two ways. The proposal recognizes the harmful impact that trade has on small manufacturers and provides assistance to those workers, companies and communities that have suffered through Trade Adjustment Assistance programs. The proposal also provides critical assistance to U.S. domestic manufacturers to ensure that they adjust to the global economy and remain competitive in the 21st century.

First of all, for those workers, businesses and communities that have been harmed by trade, my bill assists them by reauthorizing our Trade Adjustment Assistance programs for workers and business firms. The bill includes elements of an innovative program to assist similarly situated communities. Recognizing that entire communities experience economic displacement, this proposal will assist harmed communities in exploring new avenues of economic development and job creation. Combined, these programs will assist hundreds of mostly small- and medium-sized manufacturing and agricultural companies that experience loss of jobs and sales due to import competition and other adverse consequences of trade. For example, TAA for workers provides income support, job search and worker relation assistance for affected workers.

Next, my legislation will enhance two programs that have proven effective in assisting domestic manufacturing firms. For example, the bill will strengthen the very effective Manufacturing Extension Partnership program. This program assists struggling small- and medium-size manufacturers to modernize, increase productivity, cut waste, achieve higher profits, and compete in the demanding global market. With increased funding, the MEP program can expand its program reach and decrease the fees paid by small manufacturers to access the assistance. It is exactly this type of program that will make American manufacturers competitive again, allowing them to maintain existing jobs and create additional high-skilled and high-paying jobs in the United States.

In addition, my legislation increases funding for the Advanced Technology Partnership program. This very important program fosters public-private partnerships to accelerate the development of innovative technologies and bridges the gap between the research lab and the market place. The program has been very effective in accelerating the development of innovative technologies that promise significant commercial payoffs and widespread benefits for the Nation. Unfortunately, the Bush administration has sought to eliminate this program, at a time when technological change is faster than ever before and small manufacturers must be technologically competitive.

Strengthening the MEP and ATP programs will go a long way in assisting small domestic manufacturers as they attempt to regain market share lost to international competition and recover from the resulting devastating job losses.

Finally, this bill will also create an ''Office of Small Business'' within the Office of the United States Trade Representative that will focus on the issues affecting small- and medium-size manufacturers as they relate to our international trade policy. This proposal is very similar to a proposal that I offered with Senator OLYMPIA SNOWE in the 107th Congress. Small manufacturers are directly impacted by our trade policies—often adversely—yet they do not have a seat at the table and lack the ability to effectively express their concerns. The establishment of this office will ensure that issues important to small manufacturers are taken into consideration as our Nation's trade policy is carried out in the future and will assist small businesses in export promotion and trade compliance.

The final piece of my legislation plan to enhance U.S. manufacturing is my bill titled the ''Manufacturing Job Production Act.'' The bill has four components, all of which are fiscally responsible. None of them will by themselves completely make up for the jobs lost during this administration, but they will each do their part in stimulating new job creation and new investment in manufacturing firms.

The first component of my plan is a Temporary Manufacturing Job Creation Tax Credit. It is a similar proposal to one I introduced earlier this year, when we were debating the President's third major tax cut in 3 years. My idea is straightforward: Any domestic manufacturer would receive an income tax credit based on a percentage of the net increase in taxable Social Security payroll linked to new manufacturing/production jobs, comparing total applicable payroll for one year to the previous year, adjusted for inflation. The credit would apply only to domestic production/manufacturing jobs created in 2004 and 2005, and it would include jobs created in U.S. territories, and those created by foreign-owned companies in the United States or its territories.

Unlike many of the administration's tax cuts, which carry huge costs at the vague promise of a positive economic result, my idea is outcome-based because it only costs money if it actually works. Plus, it has a built-in safety valve to prevent abuse, because it prevents firms from receiving tax credits if they create new manufacturing jobs while simultaneously laying off other workers, and it stops companies from tilting the benefits to high-salary workers because these salaries are already above the Social Security payroll tax cap. By comparing payroll taxes paid over a whole year, it also provides an incentive for firms to hire new workers and keep them on payroll and makes the calculation simple for businesses. It also provides an employment stimulus for U.S. companies with subsidiaries or manufacturing facilities on U.S. possessions, such as Puerto Rico.

My proposal would be in place for 2 years, and the Joint Committee on Taxation estimates that it would cost less than $4 billion. Surely we could pass this proposal and offset its modest cost by finally closing some of the Enron tax loopholes or passing the corporate inversion proposals that have previously passed this body unanimously, only to be opposed by the House. I think the percentage of Americans that would support that tradeoff would be upwards of 80 percent. Paying for this proposal by closing tax loopholes for wealthy corporation makes perfect sense. It will help our economy grow and help slow the flow of manufacturing jobs overseas.

The second element of may plan expands upon a capital gains provision that I have included in other legislation. Section 4 of S. 842, my small business tax stimulus bill, provides that there shall be no capital gains tax applied to new equity investments in small businesses with gross sales under $100 million, if the investments are held for at least 4 years. The zero capital gains tax applies to businesses involved in certain ''critical technologies'' as well as specialized Small Business Investment Companies, or SSBICs. For the Manufacturing Job Production Act, this capital gains proposal is expanded to include new equity investments in small manufacturing firms. Such a proposal should generate new investments in manufacturing, particularly small manufacturing companies that have been so damaged by recent economic trends. And like the job creation credit, it only costs significant money if it has the desired effect. That factor alone makes it far preferable to the Republican ''throw it and see if it sticks'' tax cut strategy.

The third part of my manufacturing plan is a revised BRIDGE Act, designed to give a little extra boost to small manufacturers. The BRIDGE Act stands for Business Retained Income During Growth and Expansion. It will help ensure that rapidly expanding, entrepreneurial businesses have access to the capital they need to continue creating jobs and stimulating the economy.

Each year, the United States economy generates 600,000 to 800,000 new businesses. Most new business start small and stay small—but some evolve into fast-growth companies with the capacity to propel the economy forward. These fast-growing companies create the most new jobs, yet access to financing—particularly in the current economic environment, but also when the economy is strong—presents a pivotal challenge to them. A typical startup may open its doors with a combination of personal savings, credit card borrowing, and family lending. Once a business has grown past a certain size—say, when sales reach $10 million or more—the company is better able to attract external financing at a reasonable cost. However, there are many companies in a middle range, including many small manufacturers, which desperately need additional financing in the range of $250,000 to $1 million. These companies face a severe credit crunch that limits their growth and the number of new jobs they can create.

I believe that if congress does anything to assist small manufacturers, it should take steps to ease the credit crunch for those climbing the economic ladder from small- to medium-size enterprise, thereby generating new ones. The BRIDGE Act addresses this financing gap. As ranking member of the Committee on Small Business and Entrepreneurship, I have been the leading voice for this idea in the Senate, and it is something worth trying. Like my other proposals for tax relief for small manufacturers, it only generates cost to taxpayers if it actually works.

The BRIDGE Act is simple. It would allow a fast-growing business with less than $10 million in sales to temporarily defer up to $250,000 of its Federal income tax liability, but only if the money is reinvested in the company. The 2-year deferral would be repayable wit interest over a 4-year period. For small manufacturers, the maximum tax deferral would be $400,000, and the payback period would be extended to a maximum of 6 years. Thus, the act will free up new investment capital for growing companies by allowing them to use a portion of their Federal tax liability for self-financing. Its revenue cost is minimal—in fact, if the program is implemented temporarily, as in my bill, it actually raises a small amount in the 10-year budget window—since the deferred taxes are paid back with interest.

The fourth and final component of my tax relief plan for small manufacturers is to make permanent the increase in Section 179 small business expensing that was passed earlier this year as part of the President's third tax cut. However, this increase is set to expire at the end of 2005. While the recent increase does not help the smallest of small businesses, it can be helpful to small manufacturers who purchase more expensive equipment. It is one element of the various Bush tax cuts that deserves to be made permanent. My proposal would permanently increase the annual expensing limit to $100,000.

Mr. President, we may not have all the answers here in the Congress. Some of these trends in manufacturing employment have taken a long time to develop, and we won't be able to turn them around overnight. But at least we shouldn't ignore the changes and act as if more tax cuts will solve the problem. My manufacturing tax plan contains four reasonable, responsible components—and most will cost money only if they are actually effective. It's time for this administration to get its head out of the sand and start proposing job-creating strategies that will actually work.

Mr. President, nearly 3 million Americans, all across this Nation, have lost their jobs since 2000. We need to act now, with a comprehensive strategy that not only incorporates tax cuts but also includes real job training, business development, capital access, and levels the playing field for U.S. manufacturers. I believe this legislation addresses many of the concerns of the small business community and will take a significant step towards reversing the current trend of economic decline and job loss in the manufacturing sector.

I ask unanimous consent that the text of the MADE in America Act, the Enhance Domestic Manufacturing and Worker Assistance Act, and the Manufacturing Jobs Production Act be printed in the RECORD, and I urge all of my colleagues to support these bills.●

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

S. 1884

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 ''Enhance Domestic Manufacturing and Worker Assistance Act of 2003''.

TITLE I—EXTENSION AND EXPANSION OF TRADE ADJUSTMENT ASSISTANCE

SEC. 101. EXTENSION FOR WORKERS AND FIRMS.

(a) IN GENERAL.—Section 285 (a) and (b) (1) and (2) of the Trade Act of 1974 (19 U.S.C. 2271 note) are amended by striking ''September 30, 2007'' each place it appears and inserting ''September 30, 2012''.

(b) AUTHORIZATION.—

(1) WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking ''September 30, 2007'' and inserting ''September 30, 2012''.

(2) FIRMS.—

(A) IN GENERAL.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended—

(i) by striking ''$16,000,000'' and inserting ''$32,000,000''; and

(ii) by striking ''2007'' and inserting ''2012''.

(B) EXPANSION OF LOANS.—Section 255(h) of such Act (19 U.S.C. 2345) is amended—

(i) in paragraph (1), by striking ''$3,000,000'' and inserting ''$6,000,000''; and

(ii) in paragraph (2), by striking ''$1,000,000'' and inserting ''$2,000,000''.

(3) FARMERS.—Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g) is amended by striking ''2007'' and inserting ''2012''.

(c) FISHERMEN.—Notwithstanding any other provision of law, for purposes of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) fishermen who harvest wild stock shall be eligible for adjustment assistance to the same extent and in the same manner as a group of workers under such chapter 2.

SEC. 102. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

(a) IN GENERAL.—Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''SEC. 271. DEFINITIONS.

''In this chapter:

''(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, farmer, rancher, fisherman or worker representative (including associations of such persons) that was affected by a finding under the Antidumping Act of 1921, or by an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

''(3) COMMUNITY.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State that the Secretary certifies as being negatively impacted by trade.

''(4) COMMUNITY NEGATIVELY IMPACTED BY TRADE.—A community negatively impacted by trade means a community with respect to which a determination has been made under section 273.

''(5) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community certified under section 273 for assistance under this chapter.

''(6) FISHERMAN.—

''(A) IN GENERAL.—The term 'fisherman' means any person who—

''(i) is engaged in commercial fishing; or

''(ii) is a United States fish processor.

''(B) COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(7) JOB LOSS.—The term 'job loss' means the total or partial separation of an individual, as those terms are defined in section 247.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

''SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—Within 6 months after the date of enactment of the Enhance Domestic Manufacturing and Worker Assistance Act of 2003, the Secretary shall establish a Trade Adjustment Assistance for Communities Program at the Department of Commerce.

''(b) PERSONNEL.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this chapter.

''(c) COORDINATION OF FEDERAL RESPONSE.—The Secretary shall—

''(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

''(2) coordinate the Federal response to an eligible community—

''(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

''(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

''(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning economic adjustment for an eligible community; and

''(D) by identifying and strengthening existing agency mechanisms designed to assist eligible communities in their efforts to achieve economic adjustment and workforce reemployment;

''(3) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

''(A) identify serious economic problems in the community that are the result of negative impacts from trade;

''(B) integrate the major groups and organizations significantly affected by the economic adjustment;

''(C) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

''(D) diversify and strengthen the community economy; and

''(E) develop a community-based strategic plan to address economic development and workforce dislocation, including unemployment among agricultural commodity producers, and fishermen;

''(4) establish specific criteria for submission and evaluation of a strategic plan submitted under section 274(d);

''(5) establish specific criteria for submitting and evaluating applications for grants under section 275; and

''(6) administer the grant programs established under sections 274 and 275.

''SEC. 273. CERTIFICATION AND NOTIFICATION.

''(a) CERTIFICATION.—Not later than 45 days after an event described in subsection (c)(1), the Secretary of Commerce shall determine if a community described in subsection (b)(1) is negatively impacted by trade, and if a positive determination is made, shall certify the community for assistance under this chapter.

''(b) DETERMINATION THAT COMMUNITY IS ELIGIBLE.—

''(1) COMMUNITY DESCRIBED.—A community described in this paragraph means a community with respect to which—

''(A) the Secretary of Labor certifies a group of workers (or their authorized representative) in the community as eligible for assistance pursuant to section 223;

''(B) the Secretary of Commerce certifies a firm located in the community as eligible for adjustment assistance under section 251;

''(C) the Secretary of Agriculture certifies a group of agricultural commodity producers (or their authorized representative) in the community as eligible for adjustment assistance under section 293;

''(D) an affected domestic producer is located in the community; or

''(E) the Secretary determines that a significant number of fishermen in the community is negatively impacted by trade.

''(2) NEGATIVELY IMPACTED BY TRADE.—The Secretary shall determine that a community is negatively impacted by trade, after taking into consideration—

''(A) the number of jobs affected compared to the size of workforce in the community;

''(B) the severity of the rates of unemployment in the community and the duration of the unemployment in the community;

''(C) the income levels and the extent of underemployment in the community;

''(D) the outmigration of population from the community and the extent to which the outmigration is causing economic injury in the community; and

''(E) the unique problems and needs of the community.

''(c) DEFINITION AND SPECIAL RULES.—

''(1) EVENT DESCRIBED.—An event described in this paragraph means one of the following:

''(A) A notification described in paragraph (2).

''(B) A certification of a firm under section 251.

''(C) A finding under the Antidumping Act of 1921, or an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(D) A determination by the Secretary that a significant number of fishermen in a community have been negatively impacted by trade.

''(2) NOTIFICATION.—The Secretary of Labor, immediately upon making a determination that a group of workers is eligible for trade adjustment assistance under section 223, (or the Secretary of Agriculture, immediately upon making a determination that a group of agricultural commodity producers is eligible for adjustment assistance under section 293, as the case may be) shall notify the Secretary of Commerce of the determination.

''(d) NOTIFICATION TO ELIGIBLE COMMUNITIES.—Immediately upon certification by the Secretary of Commerce that a community is eligible for assistance under subsection (b), the Secretary shall notify the community—

''(1) of the determination under subsection (b);

''(2) of the provisions of this chapter;

''(3) how to access the clearinghouse established by the Department of Commerce regarding available economic assistance;

''(4) how to obtain technical assistance provided under section 272(c)(3); and

''(5) how to obtain grants, tax credits, low income loans, and other appropriate economic assistance.

''SEC. 274. STRATEGIC PLANS.

''(a) IN GENERAL.—An eligible community may develop a strategic plan for community economic adjustment and diversification and shall be eligible for assistance as provided for under section 275.

''(b) REQUIREMENTS FOR STRATEGIC PLAN.—A strategic plan shall contain, at a minimum, the following:

''(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used.

''(2) A description of the commitment of the community to the strategic plan over the long term and the participation and input of groups affected by economic dislocation.

''(3) A description of the projects to be undertaken by the eligible community.

''(4) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

''(5) A description of how the plan will achieve economic adjustment and diversification.

''(6) A description of how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

''(7) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

''(8) A description of how the plan will address the occupational and workforce conditions in the eligible community.

''(9) A description of the educational programs available for workforce training and future employment needs.

''(10) A description of how the plan will adapt to changing markets and business cycles.

''(11) A description and justification for the cost and timing of the total funds required by the community for economic assistance.

''(12) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

''(c) GRANTS TO DEVELOP STRATEGIC PLANS.—The Secretary, upon receipt of an application from an eligible community, may award a grant to that community to be used to develop and implement the strategic plan.

''(d) SUBMISSION OF PLAN.—A strategic plan developed under subsection (a) shall be submitted to the Secretary for evaluation and approval.

''SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, upon approval of a strategic plan from an eligible community, may award a grant to that community to carry out any project or program that is certified by the Secretary to be included in the strategic plan approved under section 274(d), or consistent with that plan.

''(b) ADDITIONAL GRANTS.—Subject to paragraph (2), in order to assist eligible communities to obtain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

''(1) the purpose of the grant program from which the grant is made is to provide technical or other assistance for planning, constructing, or equipping public works facilities or to provide assistance for public service projects; and

''(2) the grant is 1 for which the community is eligible except for the community's inability to meet the non-Federal share requirements of the grant program.

''(c) RURAL COMMUNITY PREFERENCE.—The Secretary shall develop guidelines to ensure that rural communities receive preference in the allocation of resources.

''SEC. 276. GENERAL PROVISIONS.

''(a) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter. Not later than 60 days before implementing any regulation or guideline proposed by the Secretary with respect to this chapter, the Secretary shall submit the regulation or guideline to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for approval.

''(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this chapter amounts as follows:

''(1) For fiscal year 2005, $350,000,000.

''(2) For each of fiscal years 2006 through 2015, the amount authorized to be appropriated by this subsection for the preceding fiscal year increased by a percentage equal to the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the August 31 of such preceding fiscal year, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A). Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENTS.—

(1) TERMINATION.—Section 285(b) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by adding at the end the following new paragraph:

''(3) ASSISTANCE FOR COMMUNITIES.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2015.''.

(2) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting after the items relating to chapter 3 the following new items:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''Sec. 271. Definitions.
''Sec. 272. Community Trade Adjustment Assistance Program.
''Sec. 273. Certification and notification.
''Sec. 274. Strategic plans.
''Sec. 275. Grants for economic development.
''Sec. 276. General provisions.''.

(c) JUDICIAL REVIEW.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking ''section 271'' and inserting ''section 273''.

(d) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 2004.

SEC. 103. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

''SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Enhance Domestic Manufacturing and Worker Assistance Act of 2003, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

''(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

''(c) FUNCTIONS.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

''Sec. 255A. Office of Trade Adjustment Assistance.''.

TITLE II—REAUTHORIZATION OF CERTAIN DEPARTMENT OF COMMERCE PARTNERSHIP PROGRAMS

SEC. 201. MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.

(a) IN GENERAL.—There is authorized to be appropriated for the National Institute of Standards and Technology for the Manufacturing Extension Partnership Program amounts as follows:

(1) For fiscal year 2005, $212,000,000.
(2) For fiscal year 2006, $272,000,000.
(3) For fiscal year 2007, $332,000,000.
(4) For fiscal year 2008, $392,000,000.
(5) For fiscal year 2009, $452,000,000.
(6) For fiscal year 2010, $512,000,000.
(7) For fiscal year 2011, $572,000,000.
(8) For fiscal year 2012, $632,000,000.
(9) For fiscal year 2013, $692,000,000.
(10) For fiscal year 2014, $752,000,000.
(11) For fiscal year 2015, $812,000,000.

(b) MANUFACTURING EXTENSION PARTNERSHIP PROGRAM DEFINED.—In this section, the term ''Manufacturing Extension Partnership Program'' means the program of Manufacturing Extension Partnership carried out by the National Institute of Standards and Technology under section 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278l), as provided in part 292 of title 15, Code of Federal Regulations.

SEC. 202. ADVANCED TECHNOLOGY PROGRAM.

There are authorized to be appropriated for the National Institute of Standards and Technology for carrying out the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), $400,000,000 for each of fiscal years 2004 through 2013.

TITLE III—SMALL BUSINESS OFFICE

SEC. 301. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—Chapter 4 of title I of the Trade Act of 1974 (19 U.S.C. 2171) is amended by adding after section 141, the following new section:

''SEC. 141A. SMALL BUSINESS OFFICE.

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Enhance Domestic Manufacturing and Worker Assistance Act of 2003, there shall be established in the Office of the United States Trade Representative an Office of Small Business.

''(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the functions and responsibilities described in this section.

''(c) FUNCTIONS.—The Office shall—

''(1) assist the United States Trade Representative in carrying out the Trade Representative's responsibilities under this chapter; and

''(2) ensure that small business manufacturing issues are taken into consideration in carrying out those responsibilities.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 141, the following new item:

''Sec. 141A. Office of Small Business.''.

S. 1885

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 ''Manufacturing Job Production Act of 2003''.

SEC. 2. TEMPORARY MANUFACTURING JOB CREATION TAX CREDIT.

(a) IN GENERAL.—Subpart F of part IV of subchapter A of chapter 1 (relating to rules for computing work opportunity credit) is amended by inserting after section 51A the following new section:

''SEC. 51B. REFUND OF PAYROLL TAXES ATTRIBUTABLE TO NEW MANUFACTURING EMPLOYEES DURING 2004 AND 2005.

''(a) GENERAL RULE.—In the case of an employee's first taxable year beginning in any applicable calendar year, the amount of the work opportunity credit determined under section 51 (without regard to this section) for the taxable year shall be increased by the increased manufacturing wages payroll tax rebate amount.

''(b) APPLICABLE CALENDAR YEAR.—For purposes of this section, the term 'applicable calendar year' means 2004 and 2005.

''(c) INCREASED MANUFACTURING WAGES PAYROLL TAX REBATE AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the term 'increased manufacturing wages payroll tax rebate amount' means an amount equal to the applicable percentage of the excess (if any) of—

''(A) the qualified manufacturing wages paid or incurred by the employer with respect to employment during the applicable calendar year, over

''(B) the sum of—

''(i) the qualified manufacturing wages paid or incurred by the employer with respect to employment during the previous calendar year, plus

''(ii) an amount equal to the amount determined under clause (i) multiplied by a percentage equal to the percentage change in the contribution and benefit base under section 230 of the Social Security Act from the applicable calendar year to the previous calendar year.

''(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means—

''(A) for 2004, 50 percent, and

''(B) for 2005, 25 percent.

''(d) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) QUALIFIED MANUFACTURING WAGES.—

''(A) IN GENERAL.—The term 'qualified manufacturing wages' means wages which are paid by the taxpayer and included under section 263A in the cost of property produced by the taxpayer.

''(B) WAGES.—The term 'wages' has the meaning given such term by section 3121(a), except that in the case of any employer subject to tax under chapter 22 with respect to any employee, the such term includes compensation within the meaning of section 3231(e).

''(C) UNITED STATES.—For purposes of this paragraph, the term 'United States' includes the territories and possessions of the United States.

''(2) PREDECESSORS.—Any reference in this section to an employer shall include a reference to a predecessor.

''(3) OTHER RULES.—Rules similar to the rules of sections 51(k) and 52 shall apply.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including

regulations for the application of this section in the case of acquisitions and dispositions.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 51A the following new item:

''Sec. 51B. Refund of payroll taxes attributable to new manufacturing employees during 2004 and 2005.''.

SEC. 3. MODIFICATIONS OF EXCLUSIONS AND ROLLOVERS OF GAIN ON QUALIFIED SMALL BUSINESS STOCK.

(a) EXCLUSION OF GAIN ON QUALIFIED SMALL BUSINESS STOCK.—

(1) INCREASE IN EXCLUSION PERCENTAGE.—

(A) IN GENERAL.—Section 1202(a)(1) (relating to exclusion for gain from certain small business stock) is amended by striking ''50 percent'' and inserting ''75 percent''.

(B) 100-PERCENT EXCLUSION FOR CRITICAL TECHNOLOGY, SMALL MANUFACTURING, AND SPECIALIZED SMALL BUSINESS INVESTMENT BUSINESSES.—Section 1202(a) is amended by adding at the end the following new paragraph:

''(3) CRITICAL TECHNOLOGY, SMALL MANUFACTURING, AND SPECIALIZED SMALL BUSINESS INVESTMENT BUSINESSES.—

''(A) IN GENERAL.—In the case of qualified small business stock acquired after the date of the enactment of this paragraph which is stock in—

''(i) a critical technology corporation,

''(ii) a manufacturing corporation, or

''(iii) a corporation which is a specialized small business investment company (as defined in subsection (c)(2)(B)(ii)),

paragraph (1) shall be applied by substituting '100 percent' for '75 percent'.

''(B) CRITICAL TECHNOLOGY CORPORATION.—The term 'critical technology corporation' means a corporation substantially all of the active business activities of which during substantially all of a taxpayer's holding period of stock in the corporation are in connection with—

''(i) transportation or homeland security technologies,

''(ii) antiterrorism technologies,

''(iii) technologies enhancing security by improving methods of personal identification (including biometrics),

''(iv) environmental technologies for pollution minimization, remediation, or waste management,

''(v) national defense technologies, or

''(vi) energy efficiency or the development of non-fossil based fuel source technologies.

''(C) MANUFACTURING CORPORATION.—The term 'manufacturing corporation' means a corporation substantially all of the active business activities of which during substantially all of a taxpayer's holding period of stock in the corporation are in connection with manufacturing (as determined under the North American Industrial Classification System).''.

(C) EMPOWERMENT ZONE CONFORMING AMENDMENT.—Section 1202(a)(2)(A) is amended—

(i) by striking ''60 percent'' and inserting ''100 percent'', and

(ii) by striking ''50 percent'' and inserting ''75 percent''.

(2) DECREASE IN HOLDING PERIOD.—

(A) IN GENERAL.—Section 1202(a)(1) is amended by striking ''5 years'' and inserting ''4 years''.

(B) CONFORMING AMENDMENT.—Section 1202(j)(1)(A) is amended by striking ''5 years'' and inserting ''4 years''.

(3) EXCLUSION AVAILABLE TO CORPORATIONS.—

(A) IN GENERAL.—Subsection (a) of section 1202 (relating to partial exclusion for gains from certain small business stock) is amended by striking ''other than a corporation''.

(B) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 is amended by adding at the end the following new paragraph:

''(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (d)(3)) shall not be treated as qualified small business stock while held by another member of such group.''.

(4) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

(A) IN GENERAL.—Paragraph (1) of section 1202(d) (defining qualified small business) is amended by striking ''$50,000,000'' each place it appears and inserting ''$100,000,000''.

(B) INFLATION ADJUSTMENT.—Section 1202(d) (defining qualified small business) is amended by adding at the end the following:

''(5) INFLATION ADJUSTMENT OF ASSET LIMITATION.—In the case of stock issued in any calendar year after 2004, the $100,000,000 amount contained in paragraph (1) 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, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(b) INCREASE IN PERIOD TO PURCHASE REPLACEMENT STOCK AND QUALIFY FOR ROLLOVER.—

(1) IN GENERAL.—Section 1045(a)(2) (relating to nonrecognition of gain) is amended by striking ''60-day'' and inserting ''180-day''.

(2) CONFORMING AMENDMENT.—Section 1045(b)(2) is amended by striking ''60-day'' and inserting ''180-day''.

(c) EFFECTIVE DATES.—

(1) EXCLUSION.—The amendments made by subsection (a) shall apply to stock issued after the date of the enactment of this Act.

(2) ROLLOVER.—The amendment made by subsection (b) shall apply to sales after the date of the enactment of this Act.

SEC. 4. DEFERRED PAYMENT OF TAX BY CERTAIN SMALL BUSINESSES.

(a) IN GENERAL.—Subchapter B of chapter 62 of the Internal Revenue Code of 1986 (relating to extensions of time for payment of tax) is amended by adding at the end the following new section:

''SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF TAX FOR CERTAIN SMALL BUSINESSES.

''(a) IN GENERAL.—An eligible small business may elect to pay the tax imposed by chapter 1 in 4 equal installments (6 equal installments in the case of a qualified manufacturer).

''(b) LIMITATION.—The maximum amount of tax which may be paid in installments under this section for any taxable year shall not exceed whichever of the following is the least:

''(1) The tax imposed by chapter 1 for the taxable year.

''(2) The amount contributed by the taxpayer into a BRIDGE Account during such year.

''(3) The excess of—

''(A) $250,000 ($400,000 in the case of a qualified manufacturer), over

''(B) the aggregate amount of tax for which an election under this section was made by the taxpayer (or any predecessor) for all prior taxable years.

''(c) DEFINITIONS.—For proposes of this section—

''(1) ELIGIBLE SMALL BUSINESS.—

''(A) IN GENERAL.—The term 'eligible small business' means, with respect to any taxable year, any person if—

''(i) such person meets the active business requirements of section 1202(e) throughout such taxable year,

''(ii) the taxpayer has gross receipts of $10,000,000 or less for the taxable year,

''(iii) the gross receipts of the taxpayer for such taxable year are at least 10 percent greater than the average annual gross receipts of the taxpayer (or any predecessor) for the 2 prior taxable years, and

''(iv) the taxpayer uses an accrual method of accounting.

''(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of this subsection.

''(2) QUALIFIED MANUFACTURER.—The term 'qualified manufacturer' means an eligible small business substantially all of the business activities of which are in connection with manufacturing (as determined under the North American Industrial Classification System).

''(d) DATE FOR PAYMENT OF INSTALLMENTS; TIME FOR PAYMENT OF INTEREST.—

''(1) DATE FOR PAYMENT OF INSTALLMENTS.—

''(A) IN GENERAL.—If an election is made under this section for any taxable year, the first installment shall be paid on or before the due date for such installment and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment.

''(B) DUE DATE FOR FIRST INSTALLMENT.—The due date for the first installment for a taxable year shall be whichever of the following is the earliest:

''(i) The date selected by the taxpayer.

''(ii) The date which is 2 years after the date prescribed by section 6151(a) for payment of the tax for such taxable year.

''(2) TIME FOR PAYMENT OF INTEREST.—If the time for payment of any amount of tax has been extended under this section—

''(A) INTEREST FOR PERIOD BEFORE DUE DATE OF FIRST INSTALLMENT.—Interest payable under section 6601 on any unpaid portion of such amount attributable to the period before the due date for the first installment shall be paid annually.

''(B) INTEREST DURING INSTALLMENT PERIOD.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after such period shall be paid at the same time as, and as a part of, each installment payment of the tax.

''(C) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.—In the case of a deficiency to which subsection (e)(3) applies for a taxable year which is assessed after the due date for the first installment for such year, interest attributable to the period before such due date, and interest assigned under subparagraph (B) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

''(e) SPECIAL RULES.—

''(1) APPLICATION OF LIMITATION TO PARTNERS AND S CORPORATION SHAREHOLDERS.—

''(A) IN GENERAL.—In applying this section to a partnership which is an eligible small business—

''(i) the election under subsection (a) shall be made by the partnership,

''(ii) the amount referred to in subsection (b)(1) shall be the sum of each partner's tax which is attributable to items of the partnership and assuming the highest marginal rate under section 1, and

''(iii) the partnership shall be treated as the taxpayer referred to in paragraphs (2) and (3) of subsection (b).

''(B) OVERALL LIMITATION ALSO APPLIED AT PARTNER LEVEL.—In the case of a partner in a partnership, the limitation under subsection (b)(3) shall be applied at the partnership and partner levels.

''(C) SIMILAR RULES FOR S CORPORATIONS.—Rules similar to the rules of subparagraphs (A) and (B) shall apply to shareholders in an S corporation.

''(2) ACCELERATION OF PAYMENT IN CERTAIN CASES.—

''(A) IN GENERAL.—If—

''(i) the taxpayer ceases to meet the requirement of subsection (c)(1)(A)(i), or

''(ii) there is an ownership change with respect to the taxpayer,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and the unpaid portion of the tax payable in installments shall be paid on or before the due date for filing the return of tax imposed by chapter 1 for the first taxable year following such cessation.

''(B) OWNERSHIP CHANGE.—For purposes of subparagraph, in the case of a corporation, the term 'ownership change' has the meaning given to such term by section 382. Rules similar to the rules applicable under the preceding sentence shall apply to a partnership.

''(3) PRORATION OF DEFICIENCY TO INSTALLMENTS.—Rules similar to the rules of section 6166(e) shall apply for purposes of this section.

''(f) BRIDGE ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'BRIDGE Account' means a trust created or organized in the United States for the exclusive benefit of an eligible small business, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted for any taxable year in excess of the amount allowed as a deferral under subsection (b) for such year.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) The assets of the trust consist entirely of cash or of obligations which have adequate stated interest (as defined in section 1274(c)(2)) and which pay such interest not less often than annually.

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(E) Amounts in the trust may be used only—

''(i) as security for a loan to the business or for repayment of such loan, or

''(ii) to pay the installments under this section.

''(2) ACCOUNT TAXED AS GRANTOR TRUST.—The grantor of a BRIDGE Account shall be treated for purposes of this title as the owner of such Account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

''(3) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to a BRIDGE Account on the last day of a taxable year if such payment is made on account of such taxable year and is made within 3½ months after the close of such taxable year.

''(g) REPORTS.—The Secretary may require such reporting as the Secretary determines to be appropriate to carry out this section.

''(h) APPLICATION OF SECTION.—This section shall apply to taxes imposed for taxable years beginning after December 31, 2003, and before January 1, 2008.''.

(b) PRIORITY OF LENDER.—Subsection (b) of section 6323 of the Internal Revenue Code of 1986 (relating to protection for certain interests even though notice filed) is amended by adding at the end the following new paragraph:

''(11) LOANS SECURED BY BRIDGE ACCOUNTS.—With respect to a BRIDGE account (as defined in section 6168(f)) with any bank (as defined in section 408(n)), to the extent of any loan made by such bank without actual notice or knowledge of the existence of such lien, as against such bank, if such loan is secured by such account.''.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 62 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 6168. Extension of time for payment of tax for certain small businesses.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(e) STUDY BY GENERAL ACCOUNTING OFFICE.—

(1) STUDY.—In consultation with the Secretary of the Treasury, the Comptroller General of the United States shall undertake a study to evaluate the applicability (including administrative aspects) and impact of the amendments made by section 4 of the Manufacturing Job Production Act of 2003, including how it affects the capital funding needs of businesses under the Act and number of businesses benefiting.

(2) REPORT.—Not later than March 31, 2007, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

SEC. 5. PERMANENT EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESSES.

(a) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended by striking ''$25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2006)'' and inserting ''$100,000''.

(b) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) of the Internal Revenue Code of 1986 (relating to reduction in limitation) is amended by striking ''$200,000 ($400,000 in the case of taxable years beginning after 2002 and before 2006)'' and inserting ''$400,000''.

(c) OFF-THE-SHELF COMPUTER SOFTWARE.—Paragraph (1) of section 179(d) of the Internal Revenue Code of 1986 (defining section 179 property) is amended by striking '', and which is placed in service in a taxable year beginning after 2002 and before 2006''.

(d) INFLATION ADJUSTMENT.—Subparagraph (A) of section 179(b)(5) of the Internal Revenue Code of 1986 (relating to inflation adjustments) is amended by striking ''and before 2006''.

(e) REVOCATION OF ELECTION.—Paragraph (2) of section 179(c) of the Internal Revenue Code of 1986 is amended by striking the last sentence.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

S. 1886

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Manufacturing Assistance, Development, and Education in America Act'' or the ''MADE in America Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITION OF SMALL MANUFACTURER.

(a) SMALL BUSINESS ACT.—Section 3(j) of the Small Business Act (15 U.S.C. 632(j)) is amended by striking ''For the purposes of section 7(b)(2) of this Act, the term'' and inserting ''As used in this Act—

''(1) the term 'small manufacturer' means a small business concern (as defined in subsection (a))—

''(A) whose primary business is classified in sector 31, 32, or 33 of the North American Industrial Classification System; and

''(B) whose production facilities are all located in the United States; and

''(2) the term''.

(b) SMALL BUSINESS INVESTMENT ACT OF 1958.—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—

(1) in paragraph (16), by striking ''and'' at the end;

(2) in paragraph (17), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(18) the term 'small manufacturer' means a small business concern (as defined in section 3(a) of the Small Business Act)—

''(A) whose primary business is classified in sector 31, 32, or 33 of the North American Industrial Classification System; and

''(B) whose production facilities are all located in the United States.''.

TITLE I—NATIONAL OFFICE FOR THE DEVELOPMENT OF SMALL MANUFACTURERS

SEC. 101. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 36 as section 37; and

(2) by inserting after section 35 the following:

''SEC. 36. NATIONAL OFFICE FOR DEVELOPMENT OF SMALL MANUFACTURERS.

''(a) ESTABLISHMENT.—There is established in the Administration the National Office for the Development of Small Manufacturers (referred to in this section as the 'Office') to cultivate and develop small manufacturers through a variety of means.

''(b) ASSOCIATE ADMINISTRATOR FOR SMALL MANUFACTURING.—

''(1) APPOINTMENT.—The Office shall be administered by the Associate Administrator for Small Manufacturing (referred to in this section as the 'Associate Administrator'), who shall be appointed under section 4(b)(1).

''(2) RESPONSIBILITIES.—In administering the Office, the Associate Administrator, who shall be an appointee in the Senior Executive Service, shall—

''(A) oversee and coordinate the formulation, execution, and promotion of policies and programs of the Administration that provide assistance to small manufacturers,

including the creation of the Manufacturing Corps;

''(B) direct Federal agencies and departments to provide information regarding their manufacturing resources and programs, and to take appropriate action to enhance assistance to small manufacturers;

''(C) coordinate the activities, and delivery of such activities, of Federal agencies and departments relating to manufacturing;

''(D) coordinate the activities of Federal agencies with manufacturing activities of the States; and

''(E) consult with and report to the Administrator regarding the fulfillment of responsibilities under this subsection.

''(c) MANUFACTURING CORPS.—

''(1) ESTABLISHMENT.—The Administrator shall establish a program within the Office to be known as the Manufacturing Corps to focus on the education and training of the existing and potential workforce of small manufacturers.

''(2) ADMINISTRATION.—The Manufacturing Corps shall be administered by the Associate Administrator.

''(3) RESPONSIBILITIES.—The Manufacturing Corps shall address the pressing need for more skilled workers by promoting vocational, technical, and academic education relating to the manufacturing sector.

''(4) CURRICULUM DEVELOPMENT.—

''(A) OUTREACH.—The Associate Administrator shall regularly seek input from small manufacturers regarding the human capital needs of the manufacturing industry.

''(B) COOPERATION.—The input received under subparagraph (A) shall be used to develop, and annually update, a detailed manufacturing training curriculum for each State through the cooperative effort of small manufacturers and educational institutions.

''(d) MANUFACTURING TRAINING BLOCK GRANTS.—

''(1) GRANTS AUTHORIZED.—The Administrator, in consultation with the Associate Administrator, shall award block grants to States, which shall allocate grant funds to individuals and eligible entities to develop and implement manufacturing training programs.

''(2) FUNDING FORMULA.—

''(A) IN GENERAL.—Subject to subparagraph (C), the amount of a formula grant received by a State under this subsection shall be equal to an amount determined in accordance with the following formula:

''(i) The annual amount made available under subsection (i) for the Manufacturer Corps Program shall be divided on a pro rata basis, based on the percentage of the population of each State, as compared to the population of the United States.

''(ii) If the pro rata amount calculated under clause (i) for any State is less than the minimum funding level under subparagraph (C), the Administration shall determine the aggregate amount necessary to achieve that minimum funding level for each such State.

''(iii) The aggregate amount calculated under clause (ii) shall be deducted from the amount calculated under clause (i) for States eligible to receive more than the minimum funding level. The deductions shall be made on a pro rata basis, based on the population of each such State, as compared to the total population of all such States.

''(iv) The aggregate amount deducted under clause (iii) shall be added to the grants of those States that are not eligible to receive more than the minimum funding level in order to achieve the minimum funding level for each such State, except that the eligible amount of a grant to any State shall not be reduced to an amount below the minimum funding level.

''(B) GRANT DETERMINATION.—The amount of a grant that a State is eligible to apply for under this subsection shall be the amount determined under subparagraph (A), subject to any modifications required under subparagraph (C), and shall be based on the amount available for the fiscal year in which performance of the grant commences, but not including amounts distributed in accordance with subparagraph (D). The amount of a grant received by a State under any provision of this subparagraph shall not exceed the amount of matching funds from sources other than the Federal Government, as required under paragraph (7).

''(C) MINIMUM FUNDING LEVEL.—Each State shall receive a block grant under this subsection in an amount not less than—

''(i) $200,000 for any fiscal year in which the total amount appropriated for grants under this subsection is not more than $25,000,000;

''(ii) $300,000 for any fiscal year in which the total amount appropriated for grants under this subsection is more than $25,000,000, but not more than $50,000,000;

''(iii) $400,000 for any fiscal year in which the total amount appropriated for grants under this subsection is more than $50,000,000, but not more than $75,000,000; and

''(iv) $500,000 for any fiscal year in which the total amount appropriated for grants under this subsection is more than $75,000,000.

''(D) DISTRIBUTIONS.—Subject to subparagraph (C), if any State does not apply for, or use, its full funding eligibility for a fiscal year, the Administration shall distribute the remaining funds as supplemental grants to any State, as the Administration determines, in its discretion, to be appropriate.

''(3) ELIGIBLE ENTITIES.—Secondary, vocational, and postsecondary schools that receive public funding, manufacturing extension partnerships, small business development centers, women's business centers, and similar nonprofit organizations shall be eligible to receive grant funds from States under this subsection.

''(4) USE OF FUNDS.—

''(A) IN GENERAL.—Grants awarded under this section may only be used to develop and implement vocational, technical, or academic training programs to educate and enhance the skills of—

''(i) individuals working in the field of manufacturing; and

''(ii) students who are interested in working in the field of manufacturing.

''(B) SECONDARY SCHOOLS.—Secondary schools may use funds received under this subsection to develop and conduct vocational and technology training to high school students to prepare students who are not planning to attend college immediately after graduation for employment in the field of manufacturing. Schools are encouraged to partner with small manufacturers to address their skilled worker needs and to provide employment opportunities for students after graduation.

''(C) CONTINUING EDUCATION.—Manufacturing extension partnerships, small business development centers, women's business centers, and similar nonprofit organizations may use funds received under this subsection to assist existing manufacturing workers to improve their skills and advance their technical abilities.

''(5) STUDENT LOAN REPAYMENT PROGRAM.—

''(A) IN GENERAL.—States may use grant funds received under this subsection to encourage recent college graduates to work for a small manufacturer by repaying a portion of their student loans during the period of such employment.

''(B) MAXIMUM AMOUNTS.—A State may make payments of not more than $300 per month toward the student loan principal and interest of any college graduate who has committed to work for a small manufacturer for a 4-year period beginning not sooner than the date on which the graduate submits an application under paragraph (6)(B). Aggregate payments to any individual under this paragraph may not exceed $25,000.

''(C) RENEWAL.—After the initial 4-year term established under subparagraph (B) has been completed, the State may annually renew its commitment under subparagraph (B) for successive 1-year periods if the college graduate commits to continue working for the small manufacturer.

''(D) MAXIMUM COMPENSATION.—Individuals whose gross annual compensation (including bonuses) from the small manufacturer is greater than $60,000 are ineligible to participate in the student loan repayment program authorized by this paragraph.

''(6) APPLICATION.—

''(A) INSTITUTIONAL APPLICANTS.—Any eligible entity desiring funding under this subsection shall submit a proposal to the appropriate representative of the State in which it is located.

''(B) INDIVIDUAL APPLICANTS.—Any college graduate desiring to participate in the student loan repayment program authorized under paragraph (5) shall submit an application to the appropriate representative of the State in which the graduate resides in such form as such representative may reasonably require.

''(C) CRITERIA.—States may determine which applicants receive funding under this subsection based upon specific needs and available resources.

''(7) MATCHING REQUIREMENT.—

''(A) YEARS 1 AND 2.—During each of the first and second years of the grant program established under this subsection, each State receiving a block grant under this subsection shall provide $1 in non-Federal funding for each $3 received in Federal funding under this section.

''(B) YEARS 3 AND 4.—During each of the third and fourth years of the grant program established under this subsection, each State receiving a block grant under this subsection shall provide $1 in non-Federal funding for each $2 received in Federal funding under this section.

''(C) YEARS 5 THROUGH 10.—During each of the fifth through tenth years of the grant program established under this subsection, each State receiving a block grant under this subsection shall provide $1 in non-Federal funding for each $1 received in Federal funding under this section.

''(8) STATE REPORTING REQUIREMENT.—Each State receiving a grant under this subsection shall provide sufficient information to the Administration about the distribution of grant funds to complete the report required under subsection (e).

''(9) DEFINED TERM.—As used in this subsection, the term 'State' has the meaning given the term in section 34(a).

''(e) BUSINESSLINC MANUFACTURING.—

''(1) IN GENERAL.—In accordance with this subsection, the Administrator may make grants to and enter into cooperative agreements with any coalition of private entities, public entities, or any combination of private and public entities—

''(A) to expand business-to-business relationships between large and small manufacturers; and

''(B) to provide large and small manufacturers, directly or indirectly, with online information and a database of companies that are interested in mentor-protege programs or community-based, statewide, or local business development programs.

''(2) MATCHING REQUIREMENT.—Subject to subparagraph (B), the Administrator may make a grant to a coalition under paragraph (1) only if the coalition provides for activities described in paragraph (1)(A) or (1)(B) an

amount, either in kind or in cash, equal to the grant amount.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $2,000,000 for each of the fiscal years 2004 through 2008, which shall remain available until expended.

''(f) WEBSITE FOR SMALL MANUFACTURERS.—The Associate Administrator shall establish a website that contains information for small manufacturers regarding—

''(1) entrepreneurial development assistance;

''(2) access to capital;

''(3) specific outreach programs;

''(4) contracting opportunities; and

''(5) research and development projects.

''(g) MENTOR-PROTEGE PROGRAM.—The Associate Administrator shall establish a mentor-protege program that pairs small manufacturers with larger, more experienced manufacturers to provide guidance regarding—

''(1) management practices;

''(2) domestic and foreign marketing;

''(3) efficiency improvements; and

''(4) product development.

''(h) REPORT.—

''(1) IN GENERAL.—The Administrator, in consultation with the Associate Administrator, shall submit an annual report on the implementation of this section to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

''(2) CONTENTS.—Each report submitted under paragraph (1) shall include, for the reporting period—

''(A) the number of persons assisted under this section, categorized by type of assistance received;

''(B) the number of persons described under subparagraph (A) who had previously received assistance under this section;

''(C) the number of persons described in subparagraph (A) who are working in the manufacturing sector;

''(D) the number and amount of grants awarded under this section, categorized by type of recipient;

''(E) the number of small manufacturers receiving grant funds under this section; and

''(F) the net increase in manufacturing jobs available at the small manufacturers described in subparagraph (E);

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $275,000,000 for each of the fiscal years 2005 through 2014 to carry out this subsections (c) and (d).''.

(b) CONFORMING AMENDMENTS.—Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended—

(1) by striking ''five Associate Administrators'' and inserting ''6 Associate Administrators''; and

(2) by adding at the end the following: ''One of the Associate Administrators shall be the Associate Administrator for Small Manufacturing, who shall administer the National Office for the Development of Small Manufacturers established under section 36.''.

TITLE II—INVESTING IN THE FUTURE OF MANUFACTURING

SEC. 201. INCREASED ACCESS TO CAPITAL.

(a) WORKING CAPITAL LOANS.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (3)—

(A) by inserting ''TOTAL AMOUNT OF LOANS.—'' before ''No loan'';

(B) by amending subparagraph (A) to read as follows:

''(A) if the total amount outstanding and committed (by participation or otherwise) to the borrower under section 7(a) would exceed $1,000,000 (or if the gross loan amount would exceed $2,000,000), except as provided in subparagraphs (B) and (D) and paragraph (14), plus an amount not to exceed the maximum amount of a development company financing under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), and the Administration shall report to Congress in its annual budget request and performance plan on the number of small business concerns that have financings under this subsection and under title V of the Small Business Investment Act of 1958, and the total amount and general performance of such financings;'';

(C) in subparagraph (B)—

(i) by striking ''$1,250,000'' and inserting ''$1,300,000''; and

(ii) by striking ''and'' at the end;

(D) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(D) to a small manufacturer if the total amount outstanding and committed to the borrower from the business loan and investment fund established by this Act would exceed $2,000,000 (or if the gross loan amount would exceed $4,000,000).''; and

(2) in paragraph (14), by adding at the end the following:

''(D) The total amount of financings under this paragraph that are outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established under this Act may not exceed $1,300,000 and the gross loan amount under this paragraph may not exceed $2,600,000.''.

(b) DISASTER LOANS.—Section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after subparagraph (F) the following:

''(G) LIMITATION ON SALES OF LOANS.—The Administration may not sell a loan under this subsection as part of an asset sale.

''(H) SMALL MANUFACTURERS.—

''(i) MAXIMUM LOAN AMOUNT.—Notwithstanding subparagraph (E), the Administration may make a disaster loan to a small manufacturer under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, in an amount greater than $1,500,000, if the total amount outstanding and committed to the borrower does not exceed $5,000,000.

''(ii) REFINANCING DISASTER LOANS.—Any loan made to a small manufacturer under this subparagraph that was outstanding on the date of the disaster may be refinanced by a small manufacturer that is also eligible to receive a loan under this subsection. The refinanced amount shall be considered to be part of the new loan for purposes of this subsection and shall be in addition to any other loan eligibility for that small manufacturer under this Act and the Small Business Investment Act of 1958. With respect to a refinancing under this clause, payments of principal shall be deferred, and interest shall not accrue during the 6-month period following the date of refinancing.

''(iii) REFINANCING BUSINESS DEBT.—

''(I) IN GENERAL.—Any business debt of a small manufacturer that was outstanding on the date of the disaster may be refinanced by the small manufacturer if it is also eligible to receive a loan under this subsection. With respect to a refinancing under this clause, payments of principal shall be deferred, and interest shall not accrue during the 6-month period following the date of refinancing.

''(II) RESUMPTION OF PAYMENTS.—At the end of the 6-month period described in subclause (I), the payment of periodic installments of principal and interest shall be required with respect to such loan, in the same manner and subject to the same terms and conditions as would otherwise be applicable to any other loan made under this subsection.

''(iv) AUTHORITY TO INCREASE OR WAIVE SIZE STANDARDS AND SIZE REGULATIONS.—

''(I) IN GENERAL.—At the discretion of the Administrator, the Administrator may increase or waive otherwise applicable size standards or size regulations with respect to businesses applying for disaster loans under this subparagraph.

''(II) EXEMPTION FROM ADMINISTRATIVE PROCEDURES.—The provisions of subchapter II of chapter 5, of title 5, United States Code, shall not apply to any increase or waiver by the Administrator under subclause (I).''.

(c) MICROLOANS.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (iii), by striking ''and'' at the end;

(ii) in clause (iv), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(v) to assist small manufacturers.''; and

(B) in subparagraph (B)(iii), by inserting ''(or $50,000 if the borrower is a small manufacturer)'' after ''$35,000''; and

(2) in paragraph (3)(E)—

(A) by striking ''In no case shall an intermediary'' and inserting ''An intermediary may not''; and

(B) by inserting before the period at the end the following: '', unless the borrower is a small manufacturer. An intermediary may not make a loan to a small manufacturer under this section of more than $50,000, or have outstanding or committed to any small manufacturer more than $50,000''.

SEC. 202. LOANS AND INVESTMENTS IN SMALL MANUFACTURERS.

(a) MANUFACTURING LOANS.—

(1) JOB CREATION OR RETENTION STANDARDS.—Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended—

(A) in subsection (d)(2), by inserting ''increasing the productive capacity of small manufacturers,'' after ''area''; and

(B) by striking the undesignated paragraph at the end and inserting the following:

''(e) JOB CREATION OR RETENTION.—A project being funded by the debenture is deemed to satisfy the job creation or retention requirement under subsection (d)(1) if the project creates or retains—

''(1) 1 job opportunity for every $50,000 guaranteed by the Administration; or

''(2) in the case of a manufacturing project, 1 job opportunity for every $100,000 guaranteed by the Administration.''.

(2) MAXIMUM AMOUNT.—Section 502(2) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)) is amended to read as follows:

''(2) MAXIMUM AMOUNT.—Loans made by the Administration under this section shall be limited to—

''(A) $1,000,000 for each small business concern if the loan proceeds will not be directed toward a goal or project described in subparagraph (B) or (C);

''(B) $1,300,000 for each small business concern if the loan proceeds will be directed toward 1 or more of the public policy goals described under section 501(d)(3); and

''(C) $4,000,000 for each small business concern if the loan proceeds will be directed toward manufacturing projects.''.

(3) RULE OF CONSTRUCTION.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended by adding at the end the following:

''(7) RULE OF CONSTRUCTION.—A loan under this section shall not be construed to be limited by any loan guaranteed by the Administration under subsection (a) or (b) of section

7 of the Small Business Act (15 U.S.C. 636(a) and (b)).''.

(b) SMALL BUSINESS INVESTMENT COMPANIES.—Section 303(b)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)(4)) is amended—

(1) in subparagraph (A), by striking ''(as determined by the Administrator)'' and all that follows and inserting ''may not exceed $115,000,000.''; and

(2) by amending subparagraph (B) to read as follows:

''(B) EXCEPTIONS.—

''(i) MAJORITY OF FINANCINGS IN SMALL MANUFACTURERS.—If the licensee certifies in writing that not less than 50 percent of the aggregate dollar amount of its financings are to small manufacturers—

''(I) the maximum amount of outstanding leverage issued to any 1 company shall be $150,000,000; and

''(II) the maximum amount of outstanding leverage issued to companies that are under common control shall be $185,000,000.

''(ii) COMPANIES UNDER COMMON CONTROL.—The Administrator may, on a case-by-case basis—

''(I) approve an amount of leverage that exceeds the amount described in clause (i) and subparagraph (A) for companies under common control; and

''(II) impose such additional terms and conditions as the Administrator determines to be appropriate to minimize the risk of loss to the Administration in the event of default.''.

(c) NEW MARKET VENTURE CAPITAL PROGRAM.—

(1) PURPOSES.—Section 352 of the Small Business Investment Act (15 U.S.C. 689a) is amended—

(A) in paragraph (1), by inserting ''and small manufacturers'' after ''enterprises''; and

(B) in paragraph (2), by inserting ''and small manufacturers'' after ''enterprises''.

(2) MAXIMUM GUARANTEE FOR SMALL MANUFACTURERS.—Section 355(d)(1) of the Small Business Investment Act (15 U.S.C. 689d(d)(1)) is amended—

(A) by striking ''does not exceed 150 percent'' and inserting ''does not exceed—

''(A) 150 percent''; and

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

''(B) 200 percent of the private capital of the company, if the New Markets Venture Capital company certifies in writing that not less than 50 percent of its investments are in small manufacturers.''.

(d) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—Section 368 of the Small Business Investment Act of 1958 (15 U.S.C. 689q) is amended—

(1) by redesignating subsection (b) as subsection (c); and

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

''(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—In addition to the authorizations under subsection (a), there are authorized to be appropriated for each of fiscal years 2005 and 2006, to remain available until expended, the following sums:

''(1) Such subsidy budget authority as may be necessary to guarantee $75,000,000 of debentures under this part.

''(2) $15,000,000 to make grants under this part.''.

TITLE III—EXPORT ASSISTANCE FOR SMALL MANUFACTURERS

SEC. 301. SMALL BUSINESS FOREIGN PATENT PROTECTION GRANT PILOT PROGRAM.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(x) SMALL BUSINESS FOREIGN PATENT PROTECTION GRANT PILOT PROGRAM.—

''(1) GRANTS AUTHORIZED.—The Administrator shall make grants from the Fund established under paragraph (5) for the purpose of assisting small business concerns in seeking foreign patent protection in accordance with this subsection.

''(2) NUMBER AND AMOUNT OF GRANTS.—

''(A) MAXIMUM AMOUNT.—The amount of a grant made to any small business concern under this subsection may not exceed $25,000, and no awardee may receive more than 1 grant under this subsection.

''(B) RESERVED AMOUNTS.—

''(i) IN GENERAL.—Not less than ½ of all amounts awarded under this section shall be reserved for recipients of awards under the Small Business Innovation Research Program or the Small Business Technology Transfer Program.

''(ii) EXCEPTION.—Any amount reserved for grants under clause (i) for any fiscal year that has not been obligated by July 1st of such fiscal year, may be used for grants under this subsection to any small business concern.

''(3) GRANT PURPOSES.—Grant amounts awarded under this subsection shall be used by grantees to underwrite costs associated with initial foreign patent applications for technologies or products developed by small business concerns, and for which an application for United States patent protection has already been filed.

''(4) CONSIDERATIONS.—In awarding grants under this subsection, the Director of the Office of Technology shall consider—

''(A) the size and financial need of the applicant;

''(B) the potential foreign market for the technology;

''(C) the timeframes for filing foreign patent applications; and

''(D) such other factors as the Administrator deems relevant.

''(5) ESTABLISHMENT OF REVOLVING FUND.—There is established in the Treasury of the United States a revolving fund, which shall be—

''(A) known as the 'Small Business Foreign Patent Protection Grant Fund' (referred to in this subsection as the 'Fund');

''(B) administered by the Office of Technology of the Administration, in consultation with the National Office for Development of Small Manufacturers; and

''(C) used solely to fund grants under this subsection and to pay the costs to the Administration of administering those grants.

''(6) ROYALTY FEES.—

''(A) IN GENERAL.—Each recipient of a grant under this subsection shall pay a fee to the Administration, to be deposited into the Fund, based on the export sales receipts or licensing fees, if any, from the product or technology that is the subject of the foreign patent petition.

''(B) ANNUAL INSTALLMENTS BASED ON RECEIPTS.—The fee required under subparagraph (A)—

''(i) shall be paid to the Administration in annual installments, based on the export sales receipts or licensing fees described in subparagraph (A) that are collected by the grant recipient in that calendar year;

''(ii) shall not be required to be paid in any calendar year in which no export sales receipts or licensing fees described in subparagraph (A) are collected by the grant recipient; and

''(iii) shall not exceed, in total, the lesser of—

''(I) 5 percent of the total export sales receipts and licensing fees referred to in subparagraph (A); or

''(II) 4 times the amount of the grant received.

''(7) ADMINISTRATIVE PROVISIONS.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall—

''(A) issue such regulations as are necessary to carry out this subsection; and

''(B) establish appropriate application and other administrative procedures, as the Administrator deems necessary.

''(8) REPORT.—The Administrator shall, not later than January 31, 2008, submit a report to Congress on the grants authorized by this subsection, which report shall include, categorized by year and total—

''(A) the number of grant recipients under this subsection since the date of enactment of this subsection;

''(B) the number and amount of sales or licensing fees of such grant recipients that have made foreign sales (or granted licenses to make foreign sales) and a brief description of each technology or product;

''(C) the number of technologies or products developed under the Small Business Innovation Research Program or the Small Business Technology Transfer Program, and the amounts of such sales (or licenses);

''(D) the total amount of fees paid into the Fund by recipients of grants under this subsection in accordance with paragraph (6);

''(E) recommendations for any adjustment in the percentages specified in paragraph (6)(B)(iii)(I) or the amount specified in paragraph (6)(B)(iii)(II) necessary to reduce to zero the cost to the Administration of making grants under this subsection;

''(F) any recommendations regarding the grant amount; and

''(G) any recommendations of the Administrator regarding improvements to the programs, whether authorization for grants under this subsection should be extended, and any necessary legislation related to such an extension.

''(9) STAFFING.—The Administrator shall ensure that there are sufficient staff in the Office of Technology, including not fewer than 2 full-time employees, to carry out the grant program established under this subsection.

''(10) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund, to remain available until expended—

''(A) $2,500,000 for fiscal years 2005;

''(B) $5,000,000 for fiscal year 2006;

''(C) $7,500,000 for fiscal year 2007; and

''(D) $10,000,000 for each of fiscal years 2008 and 2009.''.

By Mr. SPECTER (for himself, Mr. SCHUMER, Mr. GRAHAM of South Carolina, Mr. WYDEN, Ms. COLLINS, Mr. GRAHAM of Florida, and Mr. BAYH):

S. 1888. A bill to half Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents; to the committee on Foreign Relations.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the bill and a summary of the bill be printed in the RECORD.

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

SAUDI ARABIA ACCOUNTABILITY ACT OF 2003

Cosponsors: Schumer, Lindsey Graham, Wyden, Collins, Bob Graham, Bayh.

CONTENT

Sanctions. Unless the President makes a certification that Saudi Arabia is making a

maximum effort to fight terrorism (details below), he shall take the following actions:

Prohibit export to Saudi Arabia of any defense articles or services listed on the Arms Export Control Act. Prohibit export to Saudi Arabia of any items listed on the Commerce Control List (these are materials that have both economic and military uses). Restrict travel of Saudi diplomats to a 25-radius of the city in which their offices are located (would apply to the Saudi Embassy in DC, the Saudi UN mission in New York, and the Saudi Consulates in Houston and Los Angeles).

Presidential Certification. The President is not required to impose sanctions on Saudi Arabia if he certifies that Saudi Arabia is:

Fully cooperating with the United States in investigating and preventing terrorist attacks; Has permanently closed all Saudi-based terror organizations; Has ended any funding or other support by the Government of Saudi Arabia for any offshore terror organizations.

Presidential Waiver. Even it he has not made the certification, the President may waive the application of the sanctions if he determines that it is in the national security interest of the United States to do so.

DEFINITIONS

Offshore Terror Organizations are defined as ''charities, schools, and any other organization or institution outside of Saudi Arabia that train, incite, encourage, or in any other way aid and abet terrorism anywhere in the world.'' Thus a religious school or madrassah that incites its students to terror would be defined as a terrorist organization for purposes of this bill.

Saudi-Based Terror Organizations are the same types of organizations located within the kingdom of Saudi Arabia.

S. 1888

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 ''Saudi Arabia Accountability Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) United Nations Security Council Resolution 1373 (2001) mandates that all states ''refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts'', take ''the necessary steps to prevent the commission of terrorist acts'', and ''deny safe haven to those who finance, plan, support, or commit terrorist acts''.

(2) The Council on Foreign Relations concluded in an October 2002 report on terrorist financing that ''[f]or years, individuals and charities based in Saudi Arabia have been the most important source of funds for al-Qaeda, and for years, Saudi officials have turned a blind eye to this problem''.

(3) The Middle East Media Research Institute concluded in a July 3, 2003, report on Saudi support for Palestinian terrorists that ''for decades, the royal family of the Kingdom of Saudi Arabia has been the main financial supporter of Palestinian groups fighting Israel''. The report notes specifically that Saudi-sponsored organizations have funneled over $4,000,000,000 to finance the Palestinian intifada that began in September 2000.

(4) Much of this Saudi money has been directed to Hamas and to the families of suicide bombers, directly funding and rewarding suicide bombers. In December 2000, former Palestinian Prime Minister Mahmoud Abbas wrote to the Saudis to complain about their support for Hamas.

(5) The New York Times, citing United States and Israeli sources, reported on September 17, 2003, that at least 50 percent of the current operating budget of Hamas comes from ''people in Saudi Arabia''.

(6) Many Saudi-funded religious institutions and the literature they distribute teach a message of hate and intolerance that provides an ideological basis for anti-Western terrorism. The effects of these teachings are evidenced by the fact that Osama bin Laden himself and 15 of the 19 September 11th hijackers were Saudi citizens.

(7) After the 1996 bombing of the Khobar Towers housing complex at Dahran, Saudi Arabia, which killed 19 United States Air Force personnel and wounded approximately 400 people, the Government of Saudi Arabia refused to allow United States officials to question individuals held in detention by the Saudis in connection with the attack.

(8) During an October 2002 hearing on financing of terrorism before the Committee on the Judiciary of the Senate, the Undersecretary for Enforcement of the Department of the Treasury testified that the Government of Saudi Arabia had taken only ''baby steps'' toward stemming the financing of terrorist activities.

(9) During a July 2003 hearing on terrorism before the Subcommittee on Terrorism, Technology and Homeland Security of the Committee on the Judiciary of the Senate, David Aufhauser, General Counsel of the Treasury Department, stated that Saudi Arabia is, in many cases, the ''epicenter'' of financing for terrorism.

(10) A joint committee of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives issued a report on July 24, 2003, that quotes various United States Government personnel who complained that the Saudis refused to cooperate in the investigation of Osama bin Laden and his network both before and after the September 11, 2001, terrorist attacks.

(11) There are indications that, since the May 12, 2003, suicide bombings in Riyadh, the Government of Saudi Arabia is making a more serious effort to combat terrorism.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) it is imperative that the Government of Saudi Arabia immediately and unconditionally—

(A) provide complete, unrestricted, and unobstructed cooperation to the United States, including the unsolicited sharing of relevant intelligence in a consistent and timely fashion, in the investigation of groups and individuals that are suspected of financing, supporting, plotting, or committing an act of terror against United States citizens anywhere in the world, including within the Kingdom of Saudi Arabia;

(B) permanently close all charities, schools, or other organizations or institutions in the Kingdom of Saudi Arabia that fund, train, incite, encourage, or in any other way aid and abet terrorism anywhere in the world (hereafter in this Act referred to as ''Saudi-based terror organizations''), including by means of providing support for the families of individuals who have committed acts of terrorism;

(C) end funding or other support by the Government of Saudi Arabia for charities, schools, and any other organizations or institutions outside the Kingdom of Saudi Arabia that train, incite, encourage, or in any other way aid and abet terrorism anywhere in the world (hereafter in this Act referred to as ''offshore terror organizations''), including by means of providing support for the families of individuals who have committed acts of terrorism; and

(D) block all funding from private Saudi citizens and entities to any Saudi-based terror organization or offshore terrorism organization; and

(2) the President, in deciding whether to make the certification under section 4, should judge whether the Government of Saudi Arabia has continued and sufficiently expanded the efforts to combat terrorism that it redoubled after the May 12, 2003, bombing in Riyadh.

SEC. 4. SANCTIONS.

(a) RESTRICTIONS ON EXPORTS AND DIPLOMATIC TRAVEL.—Unless the President makes the certification described in subsection (c), the President shall take the following actions:

(1) Prohibit the export to the Kingdom of Saudi Arabia, and prohibit the issuance of a license for the export to the Kingdom of Saudi Arabia, of—

(A) any defense articles or defense services on the United States Munitions List under section 38 of the Arms Export Control Act (22 U.S.C. 2778) for which special export controls are warranted under such Act (22 U.S.C. 2751 et seq.); and

(B) any item identified on the Commerce Control List maintained under part 774 of title 15, Code of Federal Regulations.

(2) Restrict travel of Saudi diplomats assigned to Washington, District of Columbia, New York, New York, the Saudi Consulate General in Houston, or the Saudi Consulate in Los Angeles to a 25-mile radius of Washington, District of Columbia, New York, New York, the Saudi Consulate General in Houston, or the Saudi Consulate in Los Angeles, respectively.

(b) WAIVER.—The President may waive the application of subsection (a) if the President—

(1) determines that it is in the national security interest of the United States to do so; and

(2) submits to the appropriate congressional committees a report that contains the reasons for such determination.

(c) CERTIFICATION.—The President shall transmit to the appropriate congressional committees a certification of any determination made by the President after the date of the enactment of this Act that the Government of Saudi Arabia—

(1) is fully cooperating with the United States in investigating and preventing terrorist attacks;

(2) has permanently closed all Saudi-based terror organizations;

(3) has ended any funding or other support by the Government of Saudi Arabia for any offshore terror organization; and

(4) has exercised maximum efforts to block all funding from private Saudi citizens and entities to offshore terrorist organizations.

SEC. 5. REPORT.

(a) REQUIREMENT FOR REPORT.—Not later than 6 months after the date of the enactment of this Act, and every 12 months thereafter until the President makes the certification described in section 4(c), the Secretary of State shall submit to the appropriate congressional committees a report on the progress made by the Government of Saudi Arabia toward meeting the conditions described in paragraphs (1) through (4) of section 4(c).

(b) FORM.—The report submitted under subsection (a) shall be in unclassified form but may include a classified annex.

SEC. 6. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

In this Act, the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 267—DESIGNATING 2004 AS ''THE YEAR OF POLIO AWARENESS''

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

S. RES. 267

Whereas 2004 is the 50th anniversary of the successful nationwide trial of the injectable killed polio vaccine that included ''polio pioneer'' children;

Whereas the injectable polio vaccines eliminated naturally occurring polio cases in the United States but have not yet eliminated polio in other parts of the world;

Whereas as few as 57 percent of American children receive all doses of necessary vaccines during childhood, including the polio vaccine;

Whereas the success of the polio vaccines has caused people to forget the 1,630,000 Americans born before the development of the vaccines who had polio during the epidemics in the middle of the 20th century;

Whereas at least 70 percent of paralytic polio survivors, and 40 percent of nonparalytic polio survivors, are developing post-polio sequelae, which are unexpected and often disabling symptoms that occur up to 35 years after the poliovirus attack, including overwhelming fatigue, muscle weakness, muscle and joint pain, sleep disorders, heightened sensitivity to anesthesia, cold pain, and difficulty swallowing and breathing;

Whereas 2004 is the 130th anniversary of the diagnosis of the first case of post-polio sequelae and the 20th anniversary of the creation of the International Post-Polio Task Force;

Whereas research and clinical work by members of the International Post-Polio Task Force have discovered that post-polio sequelae can be treated, and even prevented, if polio survivors are taught to conserve energy and use assistive devices to stop damaging and killing the reduced number of overworked, polio virus-damaged neurons in the spinal cord and brain that survived the polio attack;

Whereas many medical professionals, and polio survivors, do not know of the existence of post-polio sequelae, or of the available treatments; and

Whereas the mission of the International Post-Polio Task Force includes educating medical professionals and the 20,000,000 polio survivors in the world about post-polio sequelae through the international post-polio letter campaign, television public service announcements provided by the Columbia Broadcasting System and the National Broadcasting System Company, and a continuing plot about polio and post-polio sequelae on the National Broadcasting Company television series ''American Dreams'': Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the need for every American child to be vaccinated against polio;

(2) recognizes the 1,630,000 Americans who survived polio, their new battle with post-polio sequelae, and the need for education and appropriate medical care;

(3) requests that every State proclaim 2004 as ''The Year of Polio Awareness'' to promote vaccination and post-polio sequelae education and treatment; and

(4) requests that the President convene a White House Polio Awareness Summit, with members of the International Post-Polio Task Force and all appropriate departments and agencies, to take immediate action to educate—

(A) the people of the United States about the need for polio vaccination; and

(B) the polio survivors and the medical professionals in the United States about the cause and treatment of post-polio sequelae.

Mr. SPECTER. Mr. President, I now turn to another subject; that is, a resolution to designate the year 2004 as the Year of Polio Awareness.

During the 1940s and the early 1950s, between 30,000 and 50,000 cases of polio were recorded annually in the United States, causing widespread fear and panic.

I recall as a youngster a public swimming pool in Wichita, KS, in which there was a total scare, wondering if going to the swimming pool would cause polio.

The polio virus damages nerves that control muscles which results in muscle weakness. In severe illness, the person could lose the ability to move both arms and legs, may be unable to breathe without help and they may die.

Of course, President Franklin Delano Roosevelt was the personal symbol for the incapacitation of someone with polio, although it was only physical. He was a magnificent President and a great leader of the United States during the Depression and World War II. A great physical toll was taken on President Roosevelt.

The year 2004 will mark the 50th anniversary of the successful nationwide trial to administer the injectable polio vaccine to children. The invention of injectable polio vaccines eliminated naturally occurring polio cases in the United States.

However, as few as 57 percent of American children currently receive the full dose of vaccines, including the polio vaccination. The need for continued diligence to protect this country's youth from polio is critical. Unfortunately, those who were stricken with polio before vaccines were developed have not received the proper help they need.

The year 2004 will also mark the 130th anniversary of the first diagnosed case of post-polio sequelae. Post-polio sequelae is a condition that may develop several decades after a person has had polio. It affects the muscles and nerves, causing weakness, fatigue, pain, and other symptoms.

Mr. SPECTER. Mr. President, I have sought recognition to offer legislation to halt Saudi Arabia's support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents. I offer this bill on behalf of Senator COLLINS, Senator SCHUMER, Senator GRAHAM of South Carolina, Senator WYDEN, Senator GRAHAM of Florida, and Senator BAYH.

The activities of al-Qaida have shaken the world. They certainly shook the United States on September 11, 2001. Evidence has come to light that there has been enormous financing of al-Qaida, Hamas, and other organizations by the Saudis.

Hearings have been held by a number of committees, including the Governmental Affairs Committee presided over by the distinguished Senator who is presiding this evening, Ms. COLLINS. We made a detailed examination, in a hearing in which I participated along with Chairman COLLINS, to inquire into what the Saudis had done and to find details of Saudi backing of so-called charitable organizations, recognizing that those charitable organizations were, in large part, a front; that perhaps there was some charitable activity but a tremendous amount of funding went to terrorist activities.

The Saudis are a very wealthy nation. They are reported to have contributed as much as $4 billion to Hamas over the course of the latest intifada.

We have worked through the Governmental Affairs Committee, and also the Judiciary Committee on which I serve, to establish a basic point that anybody who contributes to an organization knowing it to be a terrorist organization is really an accessory before the fact to murder, and that when people contribute to Hamas knowing Hamas engages in suicide bombing, they are accessories to murder.

The Terrorist Prosecution Act, which I wrote back in 1986, authorizes prosecutions in Federal court of anyone who assaults, maims, or murders an American citizen anywhere in the world.

Many United States citizens have been murdered while visiting in Israel, and I have talked to Attorney General Rubenstein of Israel and Attorney General Ashcroft of the United States, trying to work out arrangements to bring those terrorists to the United States for trial where we have the potential to impose the death penalty.

We have been very lenient with the Saudis, in my judgment, over the years, really out of deference to the importance of Saudi oil. It is really an open scandal that we have not taken action to secure some independence from our reliance on Saudi oil.

In 1996, Khobar Towers was the scene of an attack by terrorists. I chaired the Intelligence Committee that year, during the 104th Congress. I made a trip to Khobar Towers and inspected what went on. A car bomb came very close, there was an enormous blast, and 19 airmen were killed and about 400 injured.

In that situation, the Saudis would not allow Federal investigators to talk to the suspects. I personally met with Crown Prince Abdullah of Saudi Arabia and asked him to allow our investigators—the FBI—to talk to those suspects. Crown Prince Abdullah said the United States should not meddle in Saudi internal affairs.

It was hardly a Saudi internal affair when 400 airmen were wounded and 19 airmen were killed.

Notwithstanding the efforts of FBI Director Louis Freeh, who made several personal trips there, and my efforts in talking to Crown Prince

Abdullah, they refused to allow the United States to have its representatives talk to those suspects.

Later indictments were issued. Iran was a named co-conspirator in the Federal indictment.

While there has not been proof, the background circumstances lend some consideration to the thought that those who were involved in Khobar Towers may well have been involved in September 11.

We recently passed the Syria Accountability Act. I believe in the overall scheme of operations in the Mideast that the Saudis are a much greater threat to U.S. interests, and there ought to be a very firm approach as to how we deal with the Saudis.

The bill which I am introducing today has detailed recitation of the findings by organizations which have studied the record of the Saudis. The United Nations Security Council resolution mandates that all states refrain from providing any foreign support, active or passive, to people involved in terrorist acts.

The Council on Foreign Relations concluded in an October 2002 report on terrorist finances:

For years, individuals and charities based in Saudi Arabia have been the most important source of funds for al-Qaida, and, for years, Saudi officials have turned a blind eye.

The Middle East Media Institute concluded in their July 3, 2003, report again characterizing the Saudis' activities as supporting terrorists.

The New York Times cited sources reported on April 17, 2003, that at least 50 percent of the current operating budget of Hamas comes from the people of Saudi Arabia.

This resolution would call on the Government of the United States to prohibit the export to Saudi Arabia of any defense articles or services listed in the Arms Exports Control Act and prohibit import to Saudi Arabia of any items within the Commerce Control List and to restrict travel of Saudi diplomats appropriately.

The President's certification would be present to relieve these sanctions under specified circumstances.

SENATE RESOLUTION 268—TO EXPRESS THE SENSE OF THE SENATE REGARDING THE DEATHS OF 19 CITIZENS OF ITALY IN IRAQ

Mr. GRAHAM of South Carolina (for himself, Mr. FRIST, Mr. LUGAR, Mr. BIDEN, Mr. MCCAIN, Mr. PRYOR, Mr. SANTORUM, Mr. DEWINE, Mr. KYL, Mr. WARNER, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. CORZINE, Mr. LIEBERMAN, Mr. CHAMBLISS, Mr. ALLEN, Mr. SPECTER, Mr. REED, Mr. BURNS, Mr. KENNEDY, Mr. LEAHY, Ms. LANDRIEU, Mr. COLEMAN, and Mr. BAUCUS) submitted the following resolution; which was considered and agreed to:

S. RES. 268

Whereas the people of Italy are long-time and resolute allies of the United States;

Whereas the people of Italy sent 2,700 of their finest citizens in contribution to the international effort to stabilize Iraq; and

Whereas on Wednesday November 12, 2003, 19 Italians including 12 Carabinieri, 5 army soldiers, and 2 civilians were brutally murdered through cowardly acts of terrorism while on duty in Nassiriya, Iraq: Now, therefore, be it

Resolved, That the Senate—

(1) mourns with the people of Italy on their National Day of Mourning for these 19 brave souls;

(2) acknowledges the sacrifices of the Italian people; and

(3) recognizes the significant contributions that Italy continues to make towards stability and democracy around the world.

SENATE CONCURRENT RESOLUTION 82—RECOGNIZING THE IMPORTANCE OF RALPH BUNCHE AS ONE OF THE GREAT LEADERS OF THE UNITED STATES, THE FIRST AFRICAN-AMERICAN NOBEL PEACE PRIZE WINNER, AN ACCOMPLISHED SCHOLAR, A DISTINGUISHED DIPLOMAT, AND A TIRELESS CAMPAIGNER OF CIVIL RIGHTS FOR PEOPLE THROUGHOUT THE WORLD

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

S. CON. RES. 82

Whereas Ralph Bunche's life of achievement made him one of the 20th century's foremost figures and a role model for youth;

Whereas Ralph Bunche graduated valedictorian, summa cum laude, and Phi Beta Kappa from the University of California at Los Angeles in 1927 with a degree in International Relations;

Whereas Ralph Bunche was the first African-American to receive a Ph.D. in Government and International Relations at Harvard University in 1934;

Whereas Ralph Bunche served as a professor and established and chaired the Political Science Department at Howard University from 1928 to 1941;

Whereas, in 1941, Ralph Bunche served as an analyst for the Office of Strategic Services;

Whereas Ralph Bunche joined the Department of State in 1944 as an advisor;

Whereas Ralph Bunche served as an advisor to the United States delegation to the 1945 San Francisco conference charged with establishing the United Nations and drafting the Charter of the organization;

Whereas Ralph Bunche was instrumental in drafting Chapters XI and XII of the United Nations Charter, dealing with non-self-governing territories and the International Trusteeship System, which helped African countries achieve their independence and assisted in their transition to self-governing, sovereign states;

Whereas, in 1946, Ralph Bunche was appointed Director of the Trusteeship Division of the United Nations;

Whereas, in 1948, Ralph Bunche was named acting Chief Mediator in Palestine for the United Nations, and, in 1949, successfully brokered an armistice agreement between Israel, Egypt, Jordan, Lebanon, and Syria;

Whereas Ralph Bunche was deeply committed to ending colonialism and restoring individual state sovereignty through peaceful means;

Whereas the National Association for the Advancement of Colored People awarded its highest honor, the Spingarn Medal, to Ralph Bunche in 1949;

Whereas for his many significant contributions and efforts toward achieving a peaceful resolution to seemingly intractable national and international disputes, Ralph Bunche was awarded the Nobel Peace Prize in 1950, the first African-American and the first person of color to be so honored;

Whereas Ralph Bunche was named United Nations Under-Secretary-General in 1955, in charge of directing peacekeeping missions in several countries;

Whereas, in 1963, Ralph Bunche received the United States' highest civilian award, the Medal of Freedom; and

Whereas Ralph Bunche's critical contributions to the attempt to resolve the Arab-Israeli conflict and towards the de-colonization of Africa, and his commitment to and long service in the United Nations and numerous other national and international humanitarian efforts, warrant his commemoration: Now, therefore, be it

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

(1) recognizes and honors Ralph Bunche as a pivotal 20th century figure in the struggle for the realization and attainment of human rights on a global scale; and

(2) urges the President to take appropriate measures to encourage the celebration and remembrance of Ralph Bunche's many significant achievements.

Mr. BIDEN. Mr. President, I rise today in recognition of the centenary celebration of Ralph Bunche's birth

Ralph Bunche was an extraordinary man whose success was a definitive accomplishment in the history of America.

His grandmother was born into slavery.

His father was a barber in a shop for whites only.

His mother was a musician.

When his mother and father died his grandmother took him to California where her influence and the perspective she gave him on life and liberty shaped his future and, to some extent, the history of the Nation.

He was a brilliant man, a musician, debater, athlete, a summa cum laude student and valedictorian. A loving husband to Ruth and father of Joan, Jane and Ralph Jr.

He went to Harvard, taught at Howard University and earned his doctorate comparing French rule in Togoland and Dahomey.

And when the civil rights movement came he spoke out loudly and his message was clear: ''Segregation and democracy are incompatible,'' he said. ''Racial prejudice is an unreasoned phenomenon without scientific basis in biology or anthropology.''

But Ralph Bunche did not want to be remembered for his race. He wanted to be remembered for his accomplishments and his competence, for his dedication to service and his commitment to the recognition of the fundamental rights of men and women to live in harmony and peace.

He came from a generation of Americans who believed that it was wrong to recognize a man for the color of his skin, that we should, instead, recognize men and women for the power of their ideas and the contribution they make to the community.

Ralph Bunche did not want to be remembered as the first African American who was the first to graduate from University of California at Los Angeles as valedictorian or the first to graduate from Harvard with a Ph.D. in government and international relations, or the first to become Chief U.N. Mediator.

Least of all, the first to win the Nobel Peace Prize. He wished to be remembered simply as an American who answered his country's call of duty.

That is not a shortcoming . . . It is not a slight to any man or woman of color in our society . . . it is, however, a statement of hope, the hope I grew up with, that we can one day be a society that judges us not for our differences but for our accomplishments and the fact that we, as human beings, made a difference.

Ralph Bunche was one of those human beings who made a difference and left an extraordinary legacy.

By tailoring the language in the 11th and 12th Chapters of the U.N. Charter, Bunche made it possible for the United Nations to recognize the peaceful self-determination of those being exploited by colonialism, and through sheer force of will he recovered from an assassination attempt which killed 4 of his colleagues to negotiate an armistice agreement ending the first Arab-Israeli war.

With an eye for the future he presided over the conference which finalized the statues for the International Atomic Energy Agency.

And in response to an international crisis he established the foundations for the first international peacekeeping operation in Egypt.

This legacy is manifest in his dedication to the United Nations, and to the cause of peace for which we will always remember him.

His words were perhaps prophetic when he said: ''If today we speak of peace, we also speak of the United Nations, for in this era peace and the United Nations, have become inseparable. If the United Nations cannot ensure peace there will be none.

''If war should come it will be only because the United Nations has failed.

''But the United Nations need not fail.

''Surely every man of reason must work and pray to the end that it will not fail.''

Those are not popular words today but they are truthful words, a heartfelt notion from a man whose life and work centered on a way to bring people—all people—together to solve problems.

In concluding his Nobel Lecture, he said: ''There will be no security in our world, no release from agonizing tension, no genuine progress, no enduring peace, until, in Shelley's fine words, reasons voice, loud as the voice of nature, shall have waked the nations.'''

Today we honor this visionary man of peace as an accomplished scholar, a distinguished diplomat, a tireless campaigner for the civil rights of all people in every nation, and as one of the 20th centuries foremost figures and a role model for every young man and woman, black or white, Christian, Muslim, or Jew.

I ask all my colleagues to join with me in recognizing the life and work of Ralph Bunche by passing this resolution.

SENATE CONCURRENT RESOLUTION 83—PROMOTING THE ESTABLISHMENT OF A DEMOCRACY CAUCUS WITHIN THE UNITED NATIONS

Mr. BIDEN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 83

Whereas a survey conducted by Freedom House in 2003, entitled ''Freedom in the World'', found that of the 192 governments of nations of the world, 121 (or 63 percent) of such governments have an electoral democracy form of government;

Whereas, the Community of Democracies, an association of democratic nations committed to promoting democratic principles and practices, held its First Ministerial Conference in Warsaw, Poland, in June 2000;

Whereas, in a speech at that Conference, Kofi Annan, the Secretary-General of the United Nations, stated that ''when the United Nations can truly call itself a community of democracies, the [United Nations] Charter's noble ideals of protecting human rights and promoting 'social progress in larger freedoms' will have been brought much closer'', that ''democratically governed states rarely if ever make war on one another'', and that ''in this era of intra-state wars, is the fact that democratic governance—by protecting minorities, encouraging pluralism, and upholding the rule of law—can channel internal dissent peacefully, and thus help avert civil wars'';

Whereas a report by an Independent Task Force cosponsored by the Council on Foreign Relations and Freedom House in 2002, entitled ''Enhancing U.S. Leadership at the United Nations'', concluded that ''the United States is frequently outmaneuvered and outmatched at the [United Nations]'' because the 115 members of the nonaligned movement ''cooperate on substantive and procedural votes, binding the organization's many democratic nations to the objectives and blocking tactics of its remaining tyrannies'';

Whereas, at the First Ministerial Conference of the Community of Democracies, the representatives of the participating governments agreed to ''collaborate on democracy-related issues in existing international and regional institutions, forming coalitions and caucuses to support resolutions and other international activities aimed at the promotion of democratic governance''; and

Whereas that agreement was reaffirmed at the Second Ministerial Conference of the Community of Democracies in Seoul, Korea, in November 2002: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PROMOTION OF A DEMOCRACY CAUCUS WITHIN THE UNITED NATIONS.

Congress urges the President to instruct any representative of the United States to a body of the United Nations to use the voice and vote of the United States to seek to establish a democracy caucus within the United Nations as described in this Resolution.

SEC. 2. PURPOSE OF THE DEMOCRACY CAUCUS.

The purpose of the democracy caucus referred to in section 1 should be to advance the interests of the United States and other nations that are committed to promoting democratic norms and practices by—

(1) supporting common objectives, including bolstering democracy and democratic principles, advancing human rights, and fighting terrorism in accordance with the rule of law;

(2) forging common positions on matters of concern that are brought before the United Nations or any of the bodies of the United Nations;

(3) working within and across regional lines to promote the positions of the democracy caucus;

(4) encouraging democratic states to assume leadership positions in the bodies of the United Nations; and

(5) advocating that states that permit gross violations of human rights, sponsor terrorist activities, or that are the subject of sanctions imposed by the United Nations Security Council are not elected—

(A) to leadership positions in the United Nations General Assembly; or

(B) to membership or leadership positions in the Commission on Human Rights, the Security Council, or any other body of the United Nations.

SEC. 3. CRITERIA FOR PARTICIPATION IN THE DEMOCRACY CAUCUS.

Participation in the democracy caucus referred to in section 1 should be limited to countries that—

(1) are qualified to participate in the Community of Democracies, an association of democratic nations committed to promoting democratic principles and practices; and

(2) have demonstrated a commitment—

(A) to the core democratic principles and practices set out in the Final Warsaw Declaration of the Community of Democracies, adopted at Warsaw June 27, 2000; and

(B) to the democratic principles set forth in—

(i) the United Nations Charter;

(ii) the Universal Declaration of Human Rights; and

(iii) the International Covenant on Civil and Political Rights.

SEC. 4. ANNUAL MEETING.

The members of the democracy caucus referred to in section 1 should hold a ministerial-level meeting at least once each year to coordinate policies and positions of the caucus.

Mr. BIDEN. Mr. President, today I rise to support a United Nations Democracy Caucus to address questions that underlie a countless number of our foreign policy decisions, particularly in today's climate:

How can the United States be more effective in advancing our foreign policy priorities?

How can we be more active in collaborating with our allies on issues of common concern?

How can we be more productive in promoting the values upon which this nation was founded and getting our message across to those around the world who look to us for leadership?

Three years ago, in Warsaw, Poland, the United States took a step to address these questions when it became one of eight convening countries of the ''Community of Democracies,'' a network of representatives of over 100 nations that meets every 2 years to promote the advancement of global democracy and human rights.

Two years later, in Seoul, Korea, many of these countries reaffirmed their commitment to collaborating with one another and agreed to work together in existing international and regional organizations.

Hence, the idea of establishing a ''democracy caucus'' within the United Nations began to take form.

The idea is simply this: democratic nations share common values, and should work together at the United Nations to promote those values.

A simple notion that, in my view, makes extraordinary sense.

What has happened in the last several years is that support for the establishment of a democracy caucus in the United Nations has begun to take root among foreign policy experts in the United States.

Former Secretary of State Madeleine Albright has endorsed the idea, as has Jeane Kirkpatrick, former U.S. Ambassador to the United Nations.

In addition, it has been endorsed by a broad-based coalition of organizations and advocacy groups like Freedom House, Human Rights Watch, the American Jewish Committee, the American Bar Association and the Council for Community of Democracies.

In recent months, even senior Bush administration officials have expressed interest in the establishment of a democracy caucus—recognizing that the United States would be more effective if we were to work together and organize with other like-minded countries.

Assistant Secretary of State for International Organizations, Kim Holmes, recently deemed a U.N. democracy caucus as ''an idea whose time has arrived''.

Working together with like-minded nations is a logical and practical way to conduct foreign policy. We build coalitions in the Senate. We build coalitions in Congress. And it makes sense to build coalitions in the United Nations, not only for the sake of forging common positions on issues of mutual concern, but also to provide a counterbalance to other coalitions that are well organized in the United Nations, but do not necessarily share our goals.

The 115-member nonaligned movement (NAM) is an example. Last year, an Independent Task Force co-sponsored by the Council on Foreign Relations and Freedom House argued that ''the United States is frequently outmaneuvered and outmatched at the UN'' because the cooperative work of the NAM ''binds the organization's many democratic nations to the objectives and blocking tactics of its remaining tyrannies.''

A democracy caucus would give us a new and potentially effective tool within the United Nations to counter coalitions that act in a manner inimical to our interests.

So today I am submitting a resolution promoting the establishment of a democracy caucus within the United Nations.

The resolution is straightforward: it expresses the support of this Congress for a U.N. democracy caucus and outlines the vision that I, and others, have of what such a caucus would do, and how it would go about doing it.

The general idea is that a democracy caucus would convene at the U.N. General Assembly, the U.N. Commission on Human Rights, and other U.N. bodies on a regular basis.

Members of the democracy caucus would work together to forge common positions to bolster democracy and democratic principles, advance human rights, and fight terrorism.

Furthermore, this bill also talks about who will join a democracy caucus.

We need to establish a criteria for which countries would be considered democracies, and which would not. Fortunately, we are not starting from scratch.

The Community of Democracies forum has established such criteria by drawing on major principles of international law and international standards set forth in the U.N. Charter, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights.

Drawing up this criteria was a collaborative process during the First Ministerial of the community of Democracies, and the guidelines have been effective in laying the foundation and advancing the goals of the forum.

Therefore, this legislation models the U.N. democracy caucus' eligibility criteria on that already established by and for the Community of Democracies.

I envision that the U.N. democracy caucus would advocate that states that are deemed to be gross violators of human rights, sponsors of terrorist activities, or subjects of United Nations sanctions, not be elected to leadership positions in the United Nations General Assembly or other United Nations bodies.

This issue has received, and deservedly so, much attention this year—particularly after Libya was elected to serve as chair of the Commission of Human Rights.

In my view, the credibility of U.N. institutions is undermined when the members of its bodies—and particularly those in leadership positions—fall into this camp of bad actors.

According to the Freedom House 2003 survey, of the world's 192 governments, 63 percent of them have an electoral democracy form of government.

Furthermore, in the 2002 meeting of the Community of Democracies in Seoul, 118 nations were invited to participate, based upon their commitment to shred democratic values.

These numbers tell us that a democracy caucus within the U.N. would have a strong base from which to begin its work; it could be robust from its inauguration.

At the First Ministerial Conference of the Community of Democracies in Warsaw, Poland, U.N. Secretary General Kofi Annan said, ''When the United Nations can truly call itself a community of democracies, the charter's noble ideals of protecting human rights and promoting 'social progress in larger freedoms' will have been brought much closer.''

In that spirit, I submit a resolution in support of the establishment of a U.N. democracy caucus.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2199. Mr. BOND (for Mr. JEFFORDS (for himself, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. EDWARDS)) proposed an amendment to amendment SA 2150 proposed by Mr. BOND (for himself and Ms. MIKULSKI) to the bill H.R. 2861, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

SA 2200. Mr. BOND (for Mr. INHOFE) proposed an amendment to amendment SA 2150 proposed by Mr. BOND (for himself and Ms. MIKULSKI) to the bill H.R. 2861, supra.

SA 2201. Mr. BOND (for Mr. DEWINE) proposed an amendment to amendment SA 1783 proposed by Mr. DEWINE (for himself and Ms. LANDRIEU) to the bill H.R. 2765, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30 , 2004, and for other purposes.

SA 2202. Mr. FRIST (for Mr. ALLEN (for himself, Mr. WYDEN, Mr. MCCAIN, Mr. STEVENS, and Mr. HOLLINGS)) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 189, to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

TEXT OF AMENDMENTS

SA 2199. Mr. BOND (for Mr. JEFFORDS (for himself, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. EDWARDS)) proposed an amendment to amendment SA 2150 proposed by Mr. BOND (for himself and Ms. MIKULSKI) to the bill H.R. 2861, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. ——. NATIONAL ACADEMY OF SCIENCES STUDY.

The matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''ENVIRONMENTAL PROTECTION AGENCY'' in title III of division K of section 2 of the Consolidated Appropriations Resolution, 2003 (117 Stat. 513), is amended—

(1) in the first sentence of the fifth undesignated paragraph (beginning ''As soon as''), by inserting before the period at the end the following: '', and the impact of the final rule entitled 'Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Equipment Replacement Provision of the Routine Maintenance, Repair

and Replacement Exclusion', amending parts 51 and 52 of title 40, Code of Federal Regulations, and published in electronic docket OAR–2002–0068 on August 27, 2003''; and

(2) in the sixth undesignated paragraph (beginning ''The National Academy of Sciences''), by striking ''March 3, 2004'' and inserting ''January 1, 2005.''

SA 2200. Mr. BOND (for Mr. INHOFE) proposed an amendment to amendment SA 2150 proposed by Mr. BOND (for himself and Ms. MIKULSKI) to the bill H.R. 2861, making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 106, between lines 20 and 21, insert the following:

SEC. . DESIGNATIONS OF AREAS FOR $PM_{2.5}$ AND SUBMISSION OF IMPLEMENTATION PLANS FOR REGIONAL HAZE.

(A) IN GENERAL.—Section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) is amended by adding at the end the following:

''(6) DESIGNATIONS.—

''(A) SUBMISSION.—Notwithstanding any other provision of law, not later than February 15, 2004, the Governor of each State shall submit designations referred to in paragraph (1) for the July 1997 $PM_{2.5}$ national ambient air quality standards for each area within the State, based on air quality monitoring data collected in accordance with any applicable Federal reference methods for the relevant areas.

''(B) PROMULGATION.—Notwithstanding any other provision of law, not later than December 31, 2004, the Administrator shall, consistent with paragraph (1), promulgate the designations referred to in subparagraph (A) for each area of each State for the July 1997 $PM_{2.5}$ national ambient air quality standards.

''(7) IMPLEMENTATION PLAN FOR REGIONAL HAZE.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 3 years after the date on which the Administrator promulgates the designations referred to in paragraph (6)(B) for a State, the State shall submit, for the entire State, the State implementation plan revisions to meet the requirements promulgated by the Administrator under section 169B(e)(1) (referred to in this paragraph as 'regional haze requirements').

''(B) NO PRECLUSION OF OTHER PROVISIONS.—Nothing in this paragraph precludes the implementation of the agreements and recommendations stemming from the Grand Canyon Visibility Transport Commission Report dated June 1996, including the submission of State implementation plan revisions by the States of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, or Wyoming by December 31, 2003, for implementation of regional haze requirements applicable to those States.''.

(b) RELATIONSHIP TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Except as provided in paragraphs (6) and (7) of section 107(d) of the Clean Air Act (as added by subsection (a)), section 6101, subsections (a) and (b) of section 6102, and section 6103 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 463), as in effect on the day before the date of enactment of this Act, shall remain in effect.

SA. 2201. Mr. BOND (for Mr. DEWINE) proposed an amendment to amendment SA 1783 proposed by Mr. DEWINE (for himself and Ms. LANDRIEU) to the bill H.R. 2765, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike all of title II, beginning on page 14, line 17, and ending on page 33, line 14.

On page 13, line 21, strike ''40,000,000'' and insert ''27,000,000''.

On page 14, line 1, strike all after the semicolon until the end of the heading.

On page 9, line 19, strike ''20,000,000'' and insert ''33,000,000''.

SA 2202. Mr. FRIST (for Mr. ALLEN (for himself, Mr. WYDEN, Mr. MCCAIN, Mr. STEVENS, and Mr. HOLLINGS)) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 189, to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''21st Century Nanotechnology Research and Development Act''.

SEC. 2. NATIONAL NANOTECHNOLOGY PROGRAM.

(a) NATIONAL NANOTECHNOLOGY PROGRAM.—The President shall implement a National Nanotechnology Program. Through appropriate agencies, councils, and the National Nanotechnology Coordination Office established in section 3, the Program shall—

(1) establish the goals, priorities, and metrics for evaluation for Federal nanotechnology research, development, and other activities;

(2) invest in Federal research and development programs in nanotechnology and related sciences to achieve those goals; and

(3) provide for interagency coordination of Federal nanotechnology research, development, and other activities undertaken pursuant to the Program.

(b) PROGRAM ACTIVITIES.—The activities of the Program shall include

(1) developing a fundamental understanding of matter that enables control and manipulation at the nanoscale;

(2) providing grants to individual investigators and interdisciplinary teams of investigators;

(3) establishing a network of advanced technology user facilities and centers;

(4) establishing, on a merit-reviewed and competitive basis, interdisciplinary nanotechnology research centers, which shall—

(A) interact and collaborate to foster the exchange of technical information and best practices;

(B) involve academic institutions or national laboratories and other partners, which may include States and industry;

(C) make use of existing expertise in nanotechnology in their regions and nationally;

(D) make use of ongoing research and development at the micrometer scale to support their work in nanotechnology; and

(E) to the greatest extent possible, be established in geographically diverse locations, encourage the participation of Historically Black Colleges and Universities that are part B institutions as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2) and minority institutions (as defined in section 365(3) of that Act (20 U.S.C. 1067k(3))), and include institutions located in States participating in the Experimental Program to Stimulate Competitive Research (EPSCOR);

(5) ensuring United States global leadership in the development and application of nanotechnology;

(6) advancing the United States productivity and industrial competitiveness through stable, consistent, and coordinated investments in long-term scientific and engineering research in nanotechnology;

(7) accelerating the deployment and application of nanotechnology research and development in the private sector, including startup companies;

(8) encouraging interdisciplinary research, and ensuring that processes for solicitation and evaluation of proposals under the Program encourage interdisciplinary projects and collaborations;

(9) providing effective education and training for researchers and professionals skilled in the interdisciplinary perspectives necessary for nanotechnology so that a true interdisciplinary research culture for nanoscale science, engineering, and technology can emerge;

(10) ensuring that ethical, legal, environmental, and other appropriate societal concerns, including the potential use of nanotechnology in enhancing human intelligence and in developing artificial intelligence which exceeds human capacity, are considered during the development of nanotechnology by—

(A) establishing a research program to identify ethical, legal, environmental, and other appropriate societal concerns related to nanotechnology, and ensuring that the results of such research are widely disseminated;

(B) requiring that interdisciplinary nanotechnology research centers established under paragraph (4) include activities that ad dress societal, ethical, and environmental concerns;

(C) insofar as possible, integrating research on societal, ethical, and environmental concerns with nanotechnology research and development, and ensuring that advances in nanotechnology bring about improvements in quality of life for all Americans; and

(D) providing, through the National Nanotechnology Coordination Office established in section 3, for public input and outreach to be integrated into the Program by the convening of regular and ongoing public discussions, through mechanisms such as citizens' panels, consensus conferences, and educational events, as appropriate; and

(11) encouraging research on nanotechnology advances that utilize existing processes and technologies.

(c) PROGRAM MANAGEMENT.—The National Science ad Technology Council shall oversee the planning, management, and coordination of the Program. The Council, self or through an appropriate subgroup it designates or establishes, shall—

(1) establish goals and priorities for the Program, based on national needs for a set of broad applications of nanotechnology;

(2) establish program component areas, with specific priorities and technical goals, that reflect the goals and priorities established for the Program;

(3) oversee interagency coordination of the Program, including with the activities of the Defense Nanotechnology Research and Development Program established under section 246 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) and the National Institutes of Health;

(4) develop, within 12 months after the date of enactment of this Act, and update every 3 years thereafter, a strategic plan to guide the activities described under subsection (b),

meet the goals, priorities, and anticipated outcomes of the participating agencies, and describe—

(A) how the Program will move results out of the laboratory and into application for the benefit of society;

(B) the Program's support for long-term funding for interdisciplinary research and development in nanotechnology; and

(C) the allocation of funding for interagency nanotechnology projects;

(5) propose a coordinated interagency budget for the Program to the Office of Management and Budget to ensure the maintenance of a balanced nanotechnology research portfolio and an appropriate level of research effort;

(6) exchange information with academic, industry, State and local government (including State and regional nanotechnology programs), and other appropriate groups conducting research on and using nanotechnology;

(7) develop a plan to utilize Federal programs, such as the Small Business Innovation Research Program and the Small Business Technology Transfer Research Program, in support of the activity stated in subsection (b)(7)

(8) identify research areas that are not being adequately addressed by the agencies' current research programs and address such research areas;

(9) encourage progress on Program activities through the utilization of existing manufacturing facilities and industrial infrastructures such as, but not limited to, the employment of underutilized manufacturing facilities in areas of high unemployment as production engineering and research testbeds; and

(10) in carrying out its responsibilities under paragraphs (1) through (9), take into consideration the recommendations of the Advisory Panel, suggestions or recommendations developed pursuant to subsection (b)(10)(D), and the views of academic, State, industry, and other appropriate groups conducting research on and using nanotechnology.

(d) ANNUAL REPORT.—The Council shall prepare an annual report, to be submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science, and other appropriate committees, at the time of the President's budget request to Congress, that includes—

(1) the Program budget, for the current fiscal year, for each agency that participates in the Program, including a breakout of spending for the development and acquisition of research facilities and instrumentation, for each program component area, and for all activities pursuant to subsection (b)(10);

(2) the proposed Program budget for the next fiscal year, for each agency that participates in the Program, including a breakout of spending for the development and acquisition of research facilities and instrumentation, for each program component area, and for all activities pursuant to subsection (b) (10);

(3) an analysis of the progress made toward achieving the goals and priorities established for the Program;

(4) an analysis of the extent to which the Program has incorporated the recommendations of the Advisory Panel; and

(5) an assessment of how Federal agencies are implementing the plan described in subsection (c)(7), and a description of the amount of Small Business Innovative Research and Small Business Technology Transfer Research funds supporting the plan.

SEC. 3. PROGRAM COORDINATION.

(a) IN GENERAL.—The President shall establish a National Nanotechnology Coordination Office, with a Director and full-time staff, which shall—

(1) provide technical and administrative support to the Council and the Advisory Panel;

(2) serve as the point of contact on Federal nanotechnology activities for government organizations, academia, industry, professional societies, State nanotechnology programs, interested citizen groups, and others to exchange technical and programmatic information;

(3) conduct public outreach, including dissemination of findings and recommendations of the Advisory Panel, as appropriate; and

(4) promote access to and early application of the technologies, innovations, and expertise derived from Program activities to agency missions and systems across the Federal Government, and to United States industry, including startup companies.

(b) FUNDING.—The National Nanotechnology Coordination Office shall be funded through interagency funding in accordance with section 631 of Public Law 108–7.

(c) REPORT.—Within 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science on the funding of the National Nanotechnology Coordination Office. The report shall include—

(1) the amount of funding required to adequately fund the Office;

(2) the adequacy of existing mechanisms to fund this Office; and

(3) the actions taken by the Director to ensure stable funding of this Office.

SEC. 4. ADVISORY PANEL.

(a) IN GENERAL.—The President shall establish or designate a National Nanotechnology Advisory Panel.

(b) QUALIFICATIONS.—The Advisory Panel established or designated by the President under subsection (a) shall consist primarily of members from academic institutions and industry. Members of the Advisory Panel shall be qualified to provide advice and information on nanotechnology research, development, demonstrations, education, technology transfer, commercial application, or societal and ethical concerns. In selecting or designating an Advisory Panel, the President may also seek and give consideration to recommendations from the Congress, industry, the scientific community (including the National Academy of Sciences, scientific professional societies, and academia), the defense community, State and local governments, regional nanotechnology programs, and other appropriate organizations.

(c) DUTIES.—The Advisory Panel shall advise the President and the Council on matters relating to the Program, including assessing

(1) trends and developments in nanotechnology science and engineering;

(2) progress made in implementing the Program;

(3) the need to revise the Program;

(4) the balance among the components of the Program, including funding levels for the program component areas,

(5) whether the program component areas, priorities, and technical goals developed by the Council are helping to maintain United States leadership in nanotechnology;

(6) the management, coordination, implementation, and activities of the Program; and

(7) whether societal, ethical, legal, environmental, and workforce concerns are adequately addressed by the Program.

(d) REPORTS.—The Advisory Panel shall report, not . less frequently than once every 2 fiscal years, to the President on its assessments under subsection (c) and its recommendations for ways to improve the Program. The first report under this subsection shall be submitted within 1 year after the date of enactment of this Act. The Director of the Office of Science and Technology Policy shall transmit a copy of each report under this subsection to the Senate Committee on Commerce, Science, and Technology, the House of Representatives Committee on Science, and other appropriate committees of the Congress.

(e) TRAVEL EXPENSES OF NON-FEDERAL MEMBERS.—Non-Federal members of the Advisory Panel, while attending meetings of the Advisory Panel or while otherwise serving at the request of the head of the Advisory Panel away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the government serving without pay. Nothing in this subsection shall be construed to prohibit members of the Advisory Panel who are officers or employees of the United States from being allowed travel expenses, including per diem in lieu of subsistence, in accordance with existing law.

(f) EXEMPTION FROM SUNSET.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Panel.

SEC. 5. TRIENNIAL EXTERNAL REVIEW OF THE NATIONAL NANOTECHNOLOGY PROGRAM.

(a) IN GENERAL.—The Director of the National Nanotechnology Coordination Office shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a triennial evaluation of the Program, including—

(1) an evaluation of the technical accomplishments of the Program, including a review of whether the Program has achieved the goals under the metrics established by the Council;

(2) a review of the Program's management and coordination across agencies and disciplines;

(3) a review of the funding levels at each agency for the Program's activities and the ability of each agency to achieve the Program's stated goals with that funding;

(4) an evaluation of the Program's success in transferring technology to the private sector;

(5) an evaluation of whether the Program has been successful in fostering interdisciplinary research and development;

(6) an evaluation of the extent to which the Program has adequately considered ethical, legal, environmental, and other appropriate societal concerns;

(7) recommendations for new or revised Program goals;

(8) recommendations for new research areas, partnerships, coordination and management mechanisms, or programs to be established to achieve the Program's stated goals;

(9) recommendations on policy, program, and budget changes with respect to nanotechnology research and development activities,

(10) recommendations for improved metrics to evaluate the success of the Program in accomplishing its stated goals;

(11) a review of the performance of the National Nanotechnology Coordination Office and its efforts to promote access to and early application of the technologies, innovations, and expertise derived from Program activities to agency missions and systems across the Federal Government and to United States industry;

(12) an analysis of the relative position of the United States compared to other nations

with respect to nanotechnology research and development, including the identification of any critical research areas where the United States should be the world leader to best achieve the goals of the Program; and

(13) an analysis of the current impact of nanotechnology on the United States economy and recommendations for increasing its future impact.

(b) STUDY ON MOLECULAR SELF-ASSEMBLY.—As part of the first triennial review conducted in accordance with subsection (a), the National Research Council shall conduct a one-time study to determine the technical feasibility of molecular self-assembly for the manufacture of materials and devices at the molecular scale.

(c) STUDY ON THE RESPONSIBLE DEVELOPMENT OF NANOTECHNOLOGY.—As part of the first triennial review conducted in accordance with subsection (a), the National Research Council shall conduct a one-time study to assess the need for standards, guidelines, or strategies for ensuring the responsible development of nanotechnolgy, including, but not limited to—

(1) self-replicating nanoscale machines or devices;

(2) the release of such machines in natural environments;

(3) encryption;

(4) the development of defensive technologies;

(5) the use of nanotechnology in the enhancement of human intelligence; and

(6) the use of nanotechnology in developing artificial intelligence.

(d) EVALUATION TO BE TRANSMITTED TO CONGRESS.—The Director of the National Nanotechnology Coordination Office shall transmit the results of any evaluation for which it made arrangements under subsection (a) to the Advisory Panel, the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science upon receipt. The first such evaluation shall be transmitted no later than June 10, 2005, with subsequent evaluations transmitted to the Committees every 3 years thereafter.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL SCIENCE FOUNDATION.—There are authorized to be appropriated to the Director of the National Science Foundation to carry out the Director's responsibilities under this Act—

(1) $385,000,000 for fiscal year 2005;

(2) $424,000,000 for fiscal year 2006;

(3) $449,000,000 for fiscal year 2007; and

(4) $476,000,000 for fiscal year 2008.

(b) DEPARTMENT OF ENERGY.—There are authorized to be appropriated to the Secretary of Energy to carry out the Secretary's responsibilities under this Act—

(1) $317,000,000 for fiscal year 2005;

(2) $347,000,000 for fiscal year 2006;

(3) $380,000,000 for fiscal year 2007; and

(4) $415,000,000 for fiscal year 2008.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration to carry out the Administrator's responsibilities under this Act—

(1) $34,100,000 for fiscal year 2005;

(2) $37,500,000 for fiscal year 2006;

(3) $40,000,000 for fiscal year 2007; and

(4) $42,300,000 for fiscal year 2008.

(d) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out the Director's responsibilities under this Act—

(1) $68,200,000 for fiscal year 2005;

(2) $75,000,000 for fiscal year 2006;

(3) $80,000,000 for fiscal year 2007; and

(4) $84,000,000 for fiscal year 2008.

(e) ENVIRONMENTAL PROTECTION AGENCY.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the Administrator's responsibilities under this Act—

(1) $5,500,000 for fiscal year 2005;

(2) $6,050,000 for fiscal year 2006;

(3) $6,413,000 for fiscal year 2007; and

(4) $6,800,000 for fiscal year 2008.

SEC. 7. DEPARTMENT OF COMMERCE PROGRAMS.

(a) NIST PROGRAMS.—The Director of the National Institute of Standards and Technology shall—

(1) as part of the Program activities under section 2(b)(7), establish a program to conduct basic research on issues related to the development and manufacture of nanotechnology, including metrology; reliability and quality assurance; processes control; and manufacturing best practices; and

(2) utilize the Manufacturing Extension Partnership program to the extent possible to ensure that the research conducted under paragraph (1) reaches small- and medium-sized manufacturing companies.

(b) CLEARINGHOUSE.—The Secretary of Commerce or his designee, in consultation with the National Nanotechnology Coordination Office and, to the extent possible, utilizing resources at the National Technical Information Service, shall establish a clearinghouse of information related to commercialization of nanotechnology research, including information relating to activities by regional, State, and local commercial nanotechnology initiatives; transition of research, technologies, and concepts from Federal nanotechnology research and development programs into commercial and military products; best practices by government, universities and private sector laboratories transitioning technology to commercial use; examples of ways to overcome barriers and challenges to technology deployment; and use of manufacturing infrastructure and workforce.

SEC. 8. DEPARTMENT OF ENERGY PROGRAMS.

(a) RESEARCH CONSORTIA.—

(1) DEPARTMENT OF ENERGY PROGRAM.—The Secretary of Energy shall establish a program to support, on a merit-reviewed and competitive basis, consortia to conduct interdisciplinary nanotechnology research and development designed to integrate newly developed nanotechnology and microfluidic tools with systems biology and molecular imaging.

(2) AUTHORIZATION OF APPROPRIATIONS.—Of the sums authorized for the Department of Energy under section 6(b), $25,000,000 shall be used for each fiscal year 2005 through 2008 to carry out this section. Of these amounts, not less than $10,000,000 shall be provided to at least 1 consortium for each fiscal year.

(b) RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—The Secretary of Energy shall carry out projects to develop, plan, construct, acquire, operate, or support special equipment, instrumentation, or facilities for investigators conducting research and development in nanotechnology.

SEC. 9. ADDITIONAL CENTERS.

(a) AMERICAN NANOTECHNOLOGY PREPAREDNESS CENTER.—The Program shall provide for the establishment, on a merit-reviewed and competitive basis, of an American Nanotechnology Preparedness Center which shall—

(1) conduct, coordinate, collect, and disseminate studies on the societal, ethical, environmental, educational, legal, and workforce implications of nanotechnology; and

(2) identify anticipated issues related to the responsible research, development, and application of nanotechnology, as well as provide recommendations for preventing or addressing such issues.

(b) CENTER FOR NANOMATERIALS MANUFACTURING.—The Program shall provide for the establishment, on a merit-reviewed and competitive basis, of a center to—

(1) encourage, conduct, coordinate, commission, collect, and disseminate research on new manufacturing technologies for materials, devices, and systems with new combinations of characteristics, such as, but not limited to, strength, toughness, density, conductivity, flame resistance, and membrane separation characteristics; and

(2) develop mechanisms to transfer such manufacturing technologies to United States industries.

(c) REPORTS.—The Council, through the Director of the National Nanotechnology Coordination Office, shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science—

(1) within 6 months after the date of enactment of this Act, a report identifying which agency shall be the lead agency and which other agencies, if any, will be responsible for establishing the Centers described in this section; and

(2) within 18 months after the date of enactment of this Act, a report describing how the Centers described in this section have been established.

SEC. 10. DEFINITIONS.

In this Act:

(1) ADVISORY PANEL.—The term ''Advisory Panel'' means the President's National Nanotechnology Advisory Panel established or designated under section 4.

(2) NANOTECHNOLOGY.—The term ''nanotechnology'' means the science and technology that will enable one to understand, measure, manipulate, and manufacture at the atomic, molecular, and supramolecular levels, aimed at creating materials, devices, and systems with fundamentally new molecular organization, properties, and functions.

(3) PROGRAM.—The term ''Program'' means the National Nanotechnology Program established under section 2.

(4) COUNCIL.—The term ''Council'' means the National Science and Technology Council or an appropriate subgroup designated by the Council under section 2(c).

(5) ADVANCED TECHNOLOGY USER FACILITY.—The term ''advanced technology user facility'' means a nanotechnology research and development facility supported, in whole or in part, by Federal funds that is open to all United States researchers on a competitive, merit-reviewed basis.

(6) PROGRAM COMPONENT AREA.—The term ''program component area'' means a major subject area established under section 2(c)(2) under which is grouped related individual projects and activities carried out under the Program.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, November 18, 2003, at 4 p.m., in open session, to consider the nomination of the Honorable Michael W. Wynne to be Under Secretary of Defense for Acquisition, Technology, and Logistics.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on

Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 18, 2003, at 10 a.m. to conduct a hearing on the ''Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, November 18, 2003, in the President's Room, immediately following the first vote, on pending committee business.

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

COMMITTEE ON FINANCE

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, November 18, 2003, at 10 a.m., to hear testimony on nomination of Arnold I. Havens, to be General Counsel for the Department of the Treasury.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, November 18, 2003, at 2:30 p.m. for a hearing to consider the nomination of James M. Loy to be Deputy Secretary of Homeland Security, Department of Homeland Security.

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

COMMITTEE ON THE JUDICIARY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, November 18, 2003, at 9:30 a.m, on ''America after 9/11: Freedom Preserved or Freedom Lost?,'' in the Dirksen Senate Office Building Room 226.

Panel I: Bob Barr, Former United States Representative, Atlanta, GA; Viet Dinh, Professor, Georgetown University Law Center, Washington, DC; James Zogby, Arab American Institute, Washington, DC; James Dempsey, Center for Democracy and Technology, Washington, DC; Robert Cleary, Proskauer Rose, LLP, New York, NY; Nadine Strossen, President, American Civil Liberties Union, New York, NY; and Muzaffar Chishti, Director, Migration Policy Institute at New York University School of Law; New York, NY.

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. BOND. Mr. President, I ask unanimous consent that the subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, November 18, at 2:30 p.m.

The purpose of the hearings is to receive testimony on S. 1467, a bill to establish the Rio Grande outstanding natural area in the state of Colorado, and for other purposes, S. 1209, a bill to provide for the acquisition of property in Washington County, Utah, for implementation of a desert tortoise habitat conservation plan, and H.R. 708, a bill to require the conveyance of certain national forest system lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for national forest purposes, and for other purposes; S. 1167, which would resolve boundary conflicts in Barry and Stone counties in the State of Missouri, and S. 1848, which would amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administrative site in the State of Oregon.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. BOND. Mr. President, I ask unanimous consent that the subcommittee on strategic forces of the committee on armed services be authorized to meet during the session of the Senate on Tuesday, November 18, 2003, at 2:00 p.m., in open session to receive testimony on space acquisition policies and processes.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Tuesday, November 18, 2003, at 9:30 a.m. for a hearing entitled ''U.S. Tax Shelter Industry: The Role of Accountants, Lawyers and Financial Professionals.''

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

The PRESIDING OFFICER. The majority leader.

HONORING OUR ARMED FORCES

Mr. FRIST. Mr. President, I rise to honor the 17 soldiers who lost their lives this past Saturday in Iraq when two Black Hawk helicopters collided.

This tragedy stands as the deadliest single incident since Operation Iraqi Freedom began in March. It is the largest single loss of life for the 101st Airborne in 15 years.

All 17 young soldiers served in the 101st Airborne Division based at Fort Campbell. All 17 died serving their country with valor and with courage.

I would like to read each of their names for the RECORD:

SGT Michael D. Acklin, II, age 25, of Louisville, KY; SPC Ryan T. Baker, age 24, of Browns Mills, NJ; SFC Kelly Bolor, age 37, of Whittier, CA; SPC Jeremy DiGiovanni, age 21, of Pricedale, MS; SPC William D. Dusenbery, age 30, of Fairview Heights, IL; PFC Rick Hafer, age 21, of Nitro, WV; SGT Warren S. Hansen, age 36, of Clintonville, WI; PFC Sheldon R. Hawk Eagle, age 21, of Grand Forks, ND; PFC Damian L. Heidelberg, age 21, of MS; CWO Erik C. Kesterson, age 29, of Independence, OR; 1LT Pierre Piche, age 28, of Starksboro, VT; SGT John W. Russell, age 26, of Portland, TX; CWO Scott A. Saboe, age 33, of Willow Lake, SD; SPC John R. Sullivan, age 26, of Countryside, IL; SPC Eugene A. Uhl, III, age 21, of Amherst, WI; PFC Joey Whitener, age 19, of McDowell County, NC; 2LT Jeremy L. Wolfe, age 27, of Menomonie, WI.

Mr. President, my heart goes out to the families of these brave young men. America mourns your loss and honors you for the profound sacrifice you must now bear.

My heart goes out to the community of Fort Campbell which grieves the loss of these 17 young men and the 36 other valiant soldiers of the 101st who have lost their lives since the war in Iraq began. Each and every one of these soldiers is a credit to our country.

The great American philosopher and poet Ralph Waldo Emerson wrote: ''Peace has its victories, but it takes brave men and women to win them.''

We will press forward in honor of those who have lost their lives fighting this just and honorable war. With their names emblazoned on our hearts, we will secure the victories of peace.

God bless them. God bless their families. And God bless America.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2004—CONFERENCE REPORT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 2754, the energy and water appropriations bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senate proceeded to consider the conference report.

(The text of the Conference Report is printed in the proceedings of the House in the RECORD of November 7, 2003.)

Mr. DOMENICI. Mr. President, today I bring to the floor the Energy and Water Development Appropriations conference report for fiscal year 2004, approved by the conference committee last week.

My ranking member, Senator REID, and I have worked very hard this year to put together a fair conference report under extremely difficult circumstances.

For fiscal year 2004, the allocation to the conference committee was $27.3 billion, an amount that is only $381.8 million over the President's request. This situation posed a daunting challenge to the conference, both in terms of funding and philosophy.

As many of my colleagues know, the President's request dramatically cut water projects well below the current year level. In fact, the President's request was $530 million below the current year level for water projects, and we received an increased allocation smaller than what we considered the total need of our conference report.

Thus, the increased allocation, along with other funding adjustments, was

spread generally as follows: An additional $377 million to corps water projects; an additional $70 million to Bureau of Reclamation water projects; an additional $70 million to the independent regional commissions, which were badly cut in the request, like the Appalachian Regional Commission, Denali Regional Commission, and Delta Regional Commission; and we held the Department of Energy at basically the President's request level with adjustments to areas where the conference felt the program growth was too rapid, relative to other agencies under our jurisdiction.

I believe, and I think Senator REID would agree with me, that this was the fairest way to distribute the very limited resources available to the Committee.

I will now highlight a few of the key areas of the conference report.

The conference report provides $4.57 billion for the Army Corps of Engineers, that is $377 million above the President's request, but $120 million below the current year level. We have included limited new construction projects and have focused our resources on restoring the cuts to existing construction projects.

For the Bureau of Reclamation and related activities, the conference report provides $990 million, which is $70 million above the President's request, and $15 million above the current year level.

For nuclear weapons activities of the National Nuclear Security Administration, NNSA, the conference report provides $6.27 billion, which is $105 million over the President's request, and $360 million over the current year level. The budget increases are consistent with a major Defense Department initiative to restore our nuclear weapons complex.

For nuclear non proliferation activities, the conference report provides $1.37 billion, which is the same as the President's request and $12 million above the current year level. The conference continues its leadership role on countering nuclear terrorism. This budget request, coupled with the $148 million added in last year's supplemental, gives a strong boost to these highly important programs.

For environmental clean-up of Department of Energy sites, the conference report provides $7.6 billion, which is $62 million below the President's request and $238 million above the current year level. For the first time in many years, the conference was not required to add huge additional amounts to maintain clean-up budgets around the country.

For the Yucca Mountain project, the Senate conference report provides $580 million, which is $11 million below the President's request and funding for this project, as many of my colleagues know, it was a major point of contention in the conference with the House. This is a very important matter to many members of the Senate, each for various reasons.

For renewable energy R&D, the conference report provides $460 million, which is $40 million above the President's request and $40 million above the current year level. The conference report fully funds the President's new hydrogen technology initiative.

For nuclear energy R&D, the conference report provides $413 million, which is $136 million above the President's request and $147 million over the comparable current year level. The members know that this is a great priority of mine, as we continue to make investments that I believe will eventually result in the construction of new commercial power reactors in the United States.

For basic science research at DOE, the conference report provides $3.47 billion, which is $150 million above the President's request and $180 million above the current year level.

This conference report provides $55 million for the Denali Commission, $66 million for the Appalachian Regional Commission, and $5 million for the Delta Regional Authority, an increase of $3 million over the President's request.

This conference report also provides a total budget of $619 million for the Nuclear Regulatory Commission, the same as the budget request and an increase of $41 million over the current year level.

Given the overall constraints, we worked hard but were unfortunately limited to accommodating only the highest priority requests of Members wherever possible. This was a difficult conference, it I can honestly say, it was truly a conference of compromise, one which I can assure my colleagues was hard fought. In the end, I think what emerged was a conference report which reflected the priorities of both Houses.

Finally, my colleagues should be fully aware that the conference report I filed includes a provision regarding the Middle Rio Grande River in New Mexico. The provision does two things. First it prohibits the use of outer-basin water for endangered species purposes. Secondly, it establishes how the Endangered Species Act will be complied with for this river and the affected fish. This is a very important provision that has the bipartisan support in the New Mexico delegation and at the state level. Let me restate, so there is no confusion, both Governor Richardson and Senator BINGAMAN, my colleague, fully support the language on the silvery minnow that's contained in this conference report.

I thank my ranking member and good friend, Senator REID. This was one of the toughest conferences he and I have been in together, but through it all, I will tell my colleagues that Senator REID supported me every step of the way, and I thank him for that.

Also, I would like to thank his excellent staff, Drew Willison, Roger Cockrell and Nancy Olkewicz, for all the effort put forth in getting this conference report put together, without their close cooperation, this conference report would not have been possible.

I would also like to thank my former staff, Clay Sell, for all the work he did on this bill early in the year until his departure for the White House. I thank Erin McHale of my staff for all of her hard work.

Mr. REID. Mr. President, it takes just a few seconds to do this, but this is the culmination of weeks and weeks of work. I want to spread on the RECORD the affection I have for the chairman of the Energy and Water Subcommittee, Senator PETE DOMENICI. This has been a very tough process this year. But for his advocacy in protecting the Senate's position, this bill would not be in the position it is. I, again, want the RECORD spread with the partnership that he and I have on this legislation. This is legislation that is very good for the country.

By and large, I am pleased with the bill that the conferees have produced.

As conferees we are tasked with reconciling House and Senate bills that were written with very different visions and very different world views.

Reconciling them has not been easy, nor has it been accomplished without a great deal of pain on both sides.

As these things usually are, this final bill is a product of hard fought compromise and, often, splitting the difference between competing views. The result is a bill with much for both sides to like and much for both sides to dislike.

As Senate conferees, Chairman DOMENICI and I were faced with trying to work out the differences between our bill, a fairly typical Senate Energy and Water bill, and a House bill that was far different than the ones produced in recent years by the other body.

Chairman HOBSON placed a far higher priority on Yucca Mountain than his predecessors ever did and he added nearly $175 more than the President asked for to the project. At the same time, he placed a far lower emphasis on activities requested by the President within our Nation's nuclear weapons complex, cutting nearly $300 million from the program, including nearly $200 million from the nuclear weapons laboratories in New Mexico. As most of you know, Chairman DOMENICI has a passing interest in the health and well-being of those labs.

Obviously, none of this was done with any personal malice, but these honest differences of opinion sure made for a lively conference.

The final bill contains $27.3 billion in funding for the Department of Energy, the U.S. Army Corps of Engineers, the Bureau of Reclamation, and several other important agencies. The final bill exceeds the President's request by $381 million and the FY 03 total by $1.13 billion.

The engine that drives the Energy and Water bill is funding for the Corps of Engineers. Each year Chairman

DOMENICI and I receive literally thousands of requests for water projects in all fifty States. We work hard to accommodate as many of them as possible each year.

I am pleased to report that total funding for the Corps of Engineers is nearly $4.6 billion—a total that is $375 million above an utterly insufficient request from the Administration. I wish we were able to do more, but, I feel we were able to keep many very important projects moving forward this year and have been able to begin some new ones.

Total funding for the Bureau of Reclamation is set at $986 million, a total that is $64 million above the President's request and $15 million above the current year. As a Western Senator I had hoped this would be the year that we got the Bureau up to $1 billion, but we came up just short. However, I am very pleased that we are pushing the Bureau's budget in the right direction.

The conferees were able to provide total funding of $22 billion for the Department of Energy. The Senate was able to convince the House to restore most of the nearly $300 million in cuts to DOE programs, but we are still nearly $120 million below the President's request. We are, however, $1.2 billion above the current year. The overall increase has allowed the conferees to provide solid funding for the Office of Science, renewable energy projects, and the very important environmental management clean-up projects nationwide.

As most of you know, Senator DOMENICI is a fierce defender of two nuclear weapons labs in his home State, two institutions that do world class research and have helped to keep our Nation safe and secure for over 50 years. The House cut nearly $200 million from the President's budget request for Los Alamos and Sandia, a move that would have had very negative ramifications for our Nation's science-based stockpile stewardship program. I am pleased to report that we were able to restore most of these ill-advised cuts. The people of New Mexico are very lucky to have a Senator as skilled and determined as PETE DOMENICI working for them.

Frankly, given the battle we were in with the House this year over our bill, I am glad he was also fighting for me and the other 98 Members of the Senate.

I am very grateful to Chairman DOMENICI and his new clerk, Tammy Perrin, for being so dogged in their defense of the Senate position on so many issues. I have worked with his previous clerks, Alex Flint and Clay Sell, and have found them both to be outstanding. In Tammy, he has found another terrific clerk.

As always, thanks to Drew Willison, Roger Cockrell, and Nancy Olkewicz of my subcommittee staff. I appreciate everything they do for me and all of the Members of the Senate.

Mr. FRIST. Mr. President, I ask unanimous consent that the conference report be adopted and that the motion to reconsider be laid upon the table.

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

The conference report was agreed to.

MEASURE PLACED ON THE CALENDAR—S. 1875

Mr. FRIST. Mr. President, I understand there is a bill at the desk due its second reading.

The PRESIDING OFFICER. The clerk will report the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 1875) to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to extend the mental health benefits parity provisions for an additional year.

Mr. FRIST. Mr. President, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

MEASURES INDEFINITELY POSTPONED—S. 1415, S. 1671, AND S. 1746

Mr. FRIST. Mr. President, I ask unanimous consent that the following bills be indefinitely postponed: Calendar No. 326, S. 1415; Calendar No. 327, S. 1671, Calendar No. 328, S. 1746.

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

DEATHS OF ITALIAN CITIZENS IN IRAQ

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 268 introduced earlier today by Senator GRAHAM.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 268) to express the sense of the Senate regarding the deaths of 19 citizens of Italy in Iraq.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table en bloc, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 268) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 268

Whereas the people of Italy are long-time and resolute allies of the United States;

Whereas the people of Italy sent 2,700 of their finest citizens in contribution to the international effort to stabilize Iraq; and

Whereas on Wednesday November 12, 2003, 19 Italians including 12 Carabinieri, 5 army soldiers, and 2 civilians were brutally murdered through cowardly acts of terrorism while on duty in Nassiriya, Iraq: Now, therefore, be it

Resolved, That the Senate—

(1) mourns with the people of Italy on their National Day of Mourning for these 19 brave souls;

(2) acknowledges the sacrifices of the Italian people; and

(3) recognizes the significant contributions that Italy continues to make towards stability and democracy around the world.

21ST CENTURY NANOTECHNOLOGY RESEARCH AND DEVELOPMENT ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 280, S. 189.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 189) to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 189

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 ''21st Century Nanotechnology Research and Development Act''.

[SEC. 2. FINDINGS.

[The Congress makes the following findings:

[(1) The emerging fields of nanoscience and nanoengineering (collectively, ''nanotechnology''), in which matter is manipulated at the atomic level (i.e., atom-by-atom or molecule-by-molecule) in order to build materials, machines, and devices with novel properties or functions, are leading to unprecedented scientific and technological opportunities that will benefit society by changing the way many things are designed and made.

[(2) Long-term nanoscale research and development leading to potential breakthroughs in areas such as materials and manufacturing, electronics, medicine and healthcare, environment, energy, chemicals, biotechnology, agriculture, information technology, and national security could be as significant as the combined influences of microelectronics, biotechnology, and information technology on the 20th century. Nanotechnology could lead to things such as—

[(A) new generations of electronics where the entire collection of the Library of Congress is stored on devices the size of a sugar cube;

[(B) manufacturing that requires less material, pollutes less, and is embedded with sophisticated sensors that will internally detect signs of weakness and automatically respond by releasing chemicals that will prevent damage;

[(C) prosthetic and medical implants whose surfaces are molecularly designed to interact with the cells of the body;

[(D) materials with an unprecedented combination of strength, toughness, and lightness that will enable land, sea, air, and space vehicles to become lighter and more fuel efficient;

[(E) selective membranes that can fish out specific toxic or valuable particles from industrial waste or that can inexpensively desalinate sea water; and

[(F) tiny robotic spacecraft that will cost less, consume very little power, adapt to unexpected environments, change its capabilities as needed, and be completely autonomous.

[(3) Long-term, high-risk research is necessary to create breakthroughs in technology. Such research requires government funding since the benefits are too distant or uncertain for industry alone to support. Current Federal investments in nanotechnology research and development are not grounded in any specifically authorized statutory foundation. As a result, there is a risk that future funding for long-term, innovative research will be tentative and subject to instability which could threaten to hinder future United States technological and economic growth.

[(4) The Federal government can play an important role in the development of nanotechnology, as this science is still in its infancy, and it will take many years of sustained investment for this field to achieve maturity.

[(5) Many foreign countries, companies and scientists believe that nanotechnology will be the leading technology of the 21st century and are investing heavily into its research. According to a study of international nanotechnology research efforts sponsored by the National Science and Technology Council, the United States is at risk of falling behind its international competitors, including Japan, South Korea, and Europe if it fails to sustain broad based funding in nanotechnology. The United States cannot afford to fall behind our competitors if we want to maintain our economic strength.

[(6) Advances in nanotechnology stemming from Federal investments in fundamental research and subsequent private sector development likely will create technologies that support the work and improve the efficiency of the Federal government, and contribute significantly to the efforts of the government's mission agencies.

[(7) According to various estimates, including those of the National Science Foundation, the market for nanotech products and services in the United States alone could reach over $1 trillion later this century.

[(8) Nanotechnology will evolve from modern advances in chemical, physical, biological, engineering, medical, and materials research, and will contribute to cross-disciplinary training of the 21st century science and technology workforce.

[(9) Mastering nanotechnology will require a unique skill set for scientists and engineers that combine chemistry, physics, material science, and information science. Funding in these critical areas has been flat for many years and as a result fewer young people are electing to go into these areas in graduate schools throughout the United States. This will have to reverse if we hope to develop the next generation of skilled workers with multi-disciplinary perspectives necessary for the development of nanotechnology.

[(10) Research on nanotechnology creates unprecedented capabilities to alter ourselves and our environment and will give rise to a host of novel social, ethical, philosophical, and legal issues. To appropriately address these issues will require wide reflection and guidance that are responsive to the realities of the science, as well as additional research to predict, understand, and alleviate anticipated problems.

[(11) Nanotechnology will provide structures to enable the revolutionary concept of quantum computing, which uses quantum mechanical properties to do calculation. Quantum computing permits a small number of atoms to potentially store and process enormous amounts of information. Just 300 interacting atoms in a quantum computer could store as much information as a classical electronic computer that uses all the particles in the universe, and today's complex encryption algorithms, which would take today's best super computer 20 billion years, could be cracked in 30 minutes.

[(12) The Executive Branch has previously established a National Nanotechnology Initiative to coordinate Federal nanotechnology research and development programs. This initiative has contributed significantly to the development of nanotechnology. Authorizing legislation can serve to establish new technology goals and research directions, improve agency coordination and oversight mechanisms, help ensure optimal returns to investment, and simplify reporting, budgeting, and planning processes for the Executive Branch and the Congress.

[(13) The private sector technology innovations that grow from fundamental nanotechnology research are dependent on a haphazard, expensive, and generally inefficient technology transition path. Strategies for accelerating the transition of fundamental knowledge and innovations in commercial products or to support mission agencies should be explored, developed, and when appropriate, executed.

[(14) Existing data on the societal, ethical, educational, legal, and workforce implications and issues related to nanotechnology are lacking. To help decision-makers and affected parties better anticipate issues likely to arise with the onset and maturation of nanotechnology, research and studies on these issues must be conducted and disseminated.

[(15) Many States and regions have begun nanotechnology programs. These programs have developed expertise, particularly with regard to providing infrastructure and preparing the nanotechnology workforce. The Federal nanotechnology program should leverage these existing State and local institutions to best provide a coordinated and comprehensive nanotechnology research portfolio.

[(16) In ''Small Wonders, Endless Frontiers'' the National Academy of Sciences' National Research Council recommends increased investment in nanotechnology, particularly at the intersection of nanotechnology and biology. Such investments will allow significant advancements in biotechnology and medicine.

[SEC. 3. PURPOSE.

[It is the purpose of this Act to authorize a coordinated inter-agency program that will support long-term nanoscale research and development leading to potential breakthroughs in areas such as materials and manufacturing, nanoelectronics, medicine and healthcare, environment, energy, chemicals, biotechnology, agriculture, information technology, and national and homeland security.

[SEC. 4. NATIONAL NANOTECHNOLOGY RESEARCH PROGRAM.

[(a) NATIONAL NANOTECHNOLOGY RESEARCH PROGRAM.—The President shall establish a National Nanotechnology Research Program. Through appropriate agencies, councils, and the National Coordination Office, the program shall—

[(1) establish the goals, priorities, grand challenges, and metrics for evaluation for Federal nanotechnology research, development, and other activities;

[(2) invest in Federal research and development programs in nanotechnology and related sciences to achieve those goals; and

[(3) provide for interagency coordination of Federal nanotechnology research, development, and other activities undertaken pursuant to the program.

[(b) GOALS OF THE NATIONAL NANOTECHNOLOGY RESEARCH PROGRAM.—The goals of the program are as follows:

[(1) The coordination of long-term fundamental nanoscience and engineering research to build a fundamental understanding of matter enabling control and manipulation at the nanoscale.

[(2) The assurance of continued United States global leadership in nanotechnology to meet national goals and to support national economic, health, national security, educational, and scientific interests.

[(3) The advancement of United States productivity and industrial competitiveness through stable, consistent, and coordinated investments in long-term scientific and engineering research in nanotechnology.

[(4) The development of a network of shared academic facilities and technology centers, including State supported centers, that will play a critical role in accomplishing the other goals of the program, foster partnerships, and develop and utilize next generation scientific tools.

[(5) The development of enabling infrastructural technologies that United States industry can use to commercialize new discoveries and innovations in nanoscience.

[(6) The acceleration of the deployment and transition of advanced and experimental nanotechnology and concepts into the private sector.

[(7) The establishment of a program designed to provide effective education and training for the next generation of researchers and professionals skilled in the multidisciplinary perspectives necessary for nanotechnology.

[(8) To ensure that philosophical, ethical, and other societal concerns will be considered alongside the development of nanotechnology.

[(c) RESEARCH AND DEVELOPMENT AREAS.—Through its participating agencies, the National Nanotechnology Research Program shall develop, fund, and manage Federal research programs in the following areas:

[(1) LONG-TERM FUNDAMENTAL RESEARCH.—The program shall undertake long-term basic nanoscience and engineering research that focuses on fundamental understanding and synthesis of nanometer-size building blocks with potential for breakthroughs in areas such as materials and manufacturing, nanoelectronics, medicine and healthcare, environment, energy, chemical and pharmaceuticals industries, biotechnology and agriculture, computation and information technology, and national security. Funds made available from the appropriate agencies under this paragraph shall be used—

[(A) to provide awards of less than $1,000,000 each to single investigators and small groups to provide sustained support to individual investigators and small groups conducting fundamental, innovative research; and

[(B) to fund fundamental research and the development of university-industry-laboratory and interagency (including State-led) partnerships.

[(2) GRAND CHALLENGES.—The program shall support grand challenges that are essential for the advancement of the field and interdisciplinary research and education

teams, including multidisciplinary nanotechnology research centers, that work on major long-term objectives. This funding area will fund, through participating agencies, interdisciplinary research and education teams that aim to achieve major, long-term objectives, such as the following:

[(A) Nanomaterials by design which are stronger, lighter, harder, self-repairing, and safer.

[(B) Nanoelectronics, optoelectronics, and magnetics.

[(C) Healthcare applications.

[(D) Nanoscale processes and environment.

[(E) Energy and energy conservation.

[(F) Microspacecraft.

[(G) Bio-nanodevices for detection and mitigation of biothreats to humans.

[(H) Economical, efficient, and safe transportation.

[(I) National and homeland security.

[(J) Other appropriate challenges.

[(3) INTERDISCIPLINARY NANOTECHNOLOGY RESEARCH CENTERS.—The Program, through the appropriate agencies, shall fund, on a competitive merit reviewed basis, research centers in the range of $3,000,000 to $5,000,000 per year each for 5 years. A grant under this paragraph to a center may be renewed for 1 5-year term on the basis of that center's performance, determined after a review. The program, through its participating agencies, shall encourage research networking among centers and researchers and require access to facilities to both academia and industry. The centers shall assist in reaching other initiative priorities, including fundamental research, grand challenges, education, development and utilization of specific research tools, and promoting partnerships with industry. To the greatest extent possible, agencies participating in the program shall establish geographically diverse centers including at least one center in a State participating in the National Science Foundation's (NSF) Experimental Program, to Stimulate Competitive Research (EPSCoR), established under section 113 of the NSF Authorization Act of 1988 (42 U.S.C. 1862(g)) and shall encourage the participation of minority serving institutions at these centers.

[(4) RESEARCH INFRASTRUCTURE.—The program, through its participating agencies, shall ensure adequate research infrastructure and equipment for rapid progress on program goals, including the employment of underutilized manufacturing facilities in areas of high unemployment as production engineering and research testbeds for micron-scale technologies. Major research equipment and instrumentation shall be an eligible funding purpose under the program.

[(5) SOCIETAL, ETHICAL, EDUCATIONAL, LEGAL, AND WORKFORCE ISSUES RELATED TO NANOTECHNOLOGY.—The Director of the National Science Foundation shall establish a new Center for Societal, Ethical, Educational, Legal, and Workforce Issues Related to Nanotechnology at $5,000,000 per year to encourage, conduct, coordinate, commission, collect, and disseminate research on the societal, ethical, educational, legal, and workforce issues related to nanotechnology. The Center shall also conduct studies and provide input and assistance to the Director of the National Science Foundation in completing the annual report required under paragraph 7(b)(3) of this Act.

[(6) TRANSITION OF TECHNOLOGY.—The program, through its participating agencies, shall ensure cooperation and collaboration with United States industry in all relevant research efforts and develop mechanisms to assure prompt technology transition.

[(7) GAP FUNDING.—The program shall address research areas identified by the Council under section 5(a)(9) of this Act through a program of competitive grants to be awarded in such areas by the Director of the National Science Foundation using the Foundation's funds and any funds contributed to the Foundation by other participating agencies for this purpose. Such grants may be made to government or non-government awardees. Where appropriate, such grants may encourage interagency partnerships or leverage the expertise of State-supported nanotechnology programs.

[SEC. 5. PROGRAM COORDINATION AND MANAGEMENT.

[(a) IN GENERAL.—The National Science and Technology Council shall oversee the planning, management, and coordination of the Federal nanotechnology research and development program. The Council, itself or through an appropriate subgroup it designates or establishes, shall—

[(1) establish a set of broad applications of nanotechnology research and development, or grand challenges, to be met by the results and activities of the program, based on national needs;

[(2) submit to the Congress through the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science, an annual report, along with the President's annual budget request, describing the implementation of the program under section 4;

[(3) provide for interagency coordination of the program, including with the Department of Defense;

[(4) coordinate the budget requests of each of the agencies involved in the program with the Office of Management and Budget to ensure that a balanced research portfolio is maintained in order to ensure the appropriate level of research effort;

[(5) provide guidance each year to the participating departments and agencies concerning the preparation of appropriations requests for activities related to the program;

[(6) consult with academic, industry, State and local government (including State and regional nanotechnology programs), and other appropriate groups conducting research on and using nanotechnology;

[(7) establish an Information Services and Applications Council to promote access to and early application of the technologies, innovations, and expertise derived from nanotechnology research and development program activities to agency missions and systems across the Federal government, and to United States industry;

[(8) in cooperation with the Advisory Panel established under subsection (b), develop and apply measurements using appropriate metrics for evaluating program performance and progress toward goals; and

[(9) identify research areas which are not being adequately addressed by the agencies' current research programs.

[(b) PRESIDENT'S NANOTECHNOLOGY ADVISORY PANEL.—

[(1) ESTABLISHMENT.—The President shall establish a National Nanotechnology Advisory Panel.

[(2) SELECTION PROCEDURES.—The President shall establish procedures for the selection of individuals not employed by the Federal government who are qualified in the science of nanotechnology and other appropriate fields and may, pursuant to such procedures, select up to 20 individuals, one of whom shall be designated Chairman, to serve on the Advisory Panel. Selection of individuals for the Advisory Panel shall be based solely on established records of distinguished fundamental and applied scientific service, and the panel shall contain a reasonable cross-section of views and expertise, including those regarding the societal, ethical, educational, legal, and workforce issues related to nanotechnology. In selecting individuals to serve on the Advisory Panel, the President shall seek and give due consideration to recommendations from the Congress, industry, the scientific community (including the National Academy of Sciences), scientific professional societies, academia, the defense community, the education community, State and local governments, and other appropriate organizations.

[(3) MEETINGS.—The Advisory Panel shall meet no less than twice annually, at such times and places as may be designated by the Chairman in consultation with the National Nanotechnology Coordination Office established under subsection 5(c) of this Act.

[(4) DUTIES.—The Advisory Panel shall advise the President and the National Science and Technology Council, and inform the Congress, on matters relating to the National Nanotechnology Program, including goals, roles, and objectives within the program, its capabilities and research needs, guidance on achieving major objectives, and establishing and measuring performance goals using appropriate metrics. The Advisory Panel shall issue an annual report, containing the information required by subsection (d) of this section, to the President, the Council, the heads of each agency involved in the program, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science, on or before September 30 of each year.

[(c) NATIONAL NANOTECHNOLOGY COORDINATION OFFICE.—The President shall establish a National Nanotechnology Coordination Office, with full-time staff, to provide day-to-day technical and administrative support to the Council and the Advisory Panel, and to be the point of contact on Federal nanotechnology activities for government organizations, academia, industry, professional societies, State nanotechnology programs, and others to exchange technical and programmatic information. The Office shall promote full coordination of research efforts between agencies, scientific disciplines, and United States industry.

[(d) PROGRAM PLANS AND REPORTS.—

[(1) ANNUAL EVALUATION OF NANOTECHNOLOGY RESEARCH DEVELOPMENT PROGRAM.—The report by the Advisory Panel, required pursuant to subsection (b)(4), shall include—

[(A) a review of the program's technical success in achieving the stated goals and grand challenges according to the metrics established by the program and Advisory Panel;

[(B) a review of the program's management and coordination;

[(C) a review of the funding levels by each agency for the program's activities and their ability to achieve the program's stated goals and grand challenges;

[(D) a review of the balance in the program's portfolio and components across agencies and disciplines;

[(E) an assessment of the degree of participation in the program by minority serving institutions and institutions located in States participating in NSF's EPSCoR program;

[(F) a review of policy issues resulting from advancements in nanotechnology and its effects on the scientific enterprise, commerce, workforce, competitiveness, national security, medicine, and government operations;

[(G) recommendations for new program goals and grand challenges;

[(H) recommendations for new research areas, partnerships, coordination and management mechanisms, or programs to be established to achieve the program's stated goals and grand challenges;

[(I) recommendations for new investments by each participating agency in each program funding area for the 5-year period following the delivery of the report;

[(J) reviews and recommendations regarding other issues deemed pertinent or specified by the panel; and

[(K) a technology transition study which includes an evaluation of the Federal nanotechnology research and development program's success in transitioning its research, technologies, and concepts into commercial and military products, including—

[(i) examples of successful transition of research, technologies, and concepts from the Federal nanotechnology research and development program into commercial and military products;

[(ii) best practices of universities, government, and industry in promoting efficient and rapid technology transition in the nanotechnology sector;

[(iii) barriers to efficient technology transition in the nanotechnology sector, including, but not limited to, standards, pace of technological change, qualification and testing of research products, intellectual property issues, and Federal funding; and

[(iv) recommendations for government sponsored activities to promote rapid technology transition in the nanotechnology sector.

[(2) OFFICE OF MANAGEMENT AND BUDGET REVIEW.—

[(A) BUDGET REQUEST REVIEW.—Each Federal agency and department participating in the program shall, as part of its annual request for appropriations, submit information to the Office of Management and Budget including—

[(i) each element of its nanotechnology research and development activities that contributes directly to the program or benefits from the program;

[(ii) the portion of its request for appropriations that is allocated to each such element; and

[(iii) the portion of its request for appropriations that is allocated to each program funding area.

[(B) OMB REVIEW AND ALLOCATION STATEMENT.—The Office of Management and Budget shall review the information provided under subparagraph (A) in light of the goals, priorities, grand challenges, and agency and departmental responsibilities set forth in the annual report of the Council under paragraph (3), and shall include in the President's annual budget estimate, a statement delineating the amount and portion of each appropriate agency's or department's annual budget estimate relating to its activities undertaken pursuant to the program.

[(3) ANNUAL NSTC REPORT TO CONGRESS ON THE NANOTECHNOLOGY RESEARCH DEVELOPMENT PROGRAM.—The National Science and Technology Council shall submit an annual report to the Congress that—

[(A) includes a detailed description of the goals, grand challenges, and program funding areas established by the President for the program;

[(B) sets forth the relevant programs and activities, for the fiscal year with respect to which the budget submission applies, of each Federal agency and department, participating in the program, as well as such other agencies and departments as the President or the Director considers appropriate;

[(C) describes the levels of Federal funding for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies, for each of the program funding areas of the program;

[(D) describes the levels of Federal funding for each agency and department participating in the program and each program funding area for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies, and compare these levels to the most recent recommendations of the Advisory Panel and the external review of the program;

[(E) describes coordination and partnership activities with State, local, international, and private sector efforts in nanotechnology research and development, and how they support the goals of the program;

[(F) describes mechanisms and efforts used by the program to assist in the transition of innovative concepts and technologies from Federally funded programs into the commercial sector, and successes in these transition activities;

[(G) describes coordination between the military and civilian portions, as well as the life science and non-life science portions, of the program in technology development, supporting the goals of the program, and supporting the mission needs of the departments and agencies involved;

[(H) analyzes the progress made toward achieving the goals, priorities, and grand challenges designated for the program according to the metrics established by the program and the Advisory Panel; and

[(I) recommends new mechanisms of coordination, program funding areas, partnerships, or activities necessary to achieve the goals, priorities, and grand challenges established for the program.

[(4) TRIENNIAL EXTERNAL REVIEW OF NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.—

[(A) IN GENERAL.—The Director of the National Science Foundation shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a triennial evaluation of the Federal nanotechnology research and development program, including—

[(i) a review of the technical success of the program in achieving the stated goals and grand challenges under the metrics established by the program and the nanotechnology Advisory Panel, and under other appropriate measurements;

[(ii) a review of the program's management and coordination across agencies and disciplines;

[(iii) a review of the funding levels by each agency for the program's activities and their ability with such funding to achieve the program's stated goals and grand challenges;

[(iv) recommendations for new or revised program goals and grand challenges;

[(v) recommendations for new research areas, partnerships, coordination and management mechanisms, or programs to be established to achieve the program's stated goals and grand challenges;

[(vi) recommendations for investment levels in light of goals by each participating agency in each program funding area for the 5-year period following the delivery of the report;

[(vii) recommendations on policy, program, and budget changes with respect to nanotechnology research and development activities;

[(viii) recommendations for improved metrics to evaluate the success of the program in accomplishing its stated goals;

[(ix) a review of the performance of the Information Services and Applications Council and its efforts to promote access to and early application of the technologies, innovations, and expertise derived from program activities to agency missions and systems across the Federal government and to United States industry; and

[(x) an analysis of the relative position of the United States compared to other nations with respect to nanotechnology research and development, including the identification of any critical research areas where the United States should be the world leader to best achieve the goals of the program.

[(B) EVALUATION TO BE TRANSMITTED TO CONGRESS.—The Director of the National Science Foundation shall transmit the results of any evaluation for which it made arrangements under subparagraph (A) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science upon receipt. The first such evaluation shall be transmitted no later than June 10, 2005, with subsequent evaluations transmitted to the Committees every 3 years thereafter.

[SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[(a) NATIONAL SCIENCE FOUNDATION.—

[(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Director of the National Science Foundation to carry out the Director's responsibilities under this Act $346,150,000 for fiscal year 2004.

[(2) SPECIFIC ALLOCATIONS.—

[(A) INTERDISCIPLINARY NANOTECHNOLOGY RESEARCH CENTERS.—Of the amounts described in paragraph (1), $50,000,000 for fiscal year 2004, shall be available for grants of up to $5,000,000 each for multidisciplinary nanotechnology research centers.

[(B) CENTER FOR SOCIETAL, ETHICAL, EDUCATIONAL, LEGAL, AND WORKFORCE ISSUES RELATED TO NANOTECHNOLOGY.—Of the sums authorized for the National Science Foundation each fiscal year, $5,000,000 shall be used to establish a university-based Center for Societal, Ethical, Educational, Legal, and Workforce Issues Related to Nanotechnology.

[(C) NATIONAL NANOTECHNOLOGY COORDINATION OFFICE.—Of the sums authorized for the National Science Foundation each fiscal year, $5,000,000 shall be used for the activities of the Nanotechnology Coordination Office.

[(D) GAP FUNDING.—Of the sums authorized for the National Science Foundation each fiscal year, $5,000,000 shall be for use in competitive grants as described in section 4(c)(7) of this Act.

[(b) DEPARTMENT OF ENERGY.—There are authorized to be appropriated to the Secretary of Energy to carry out the Secretary's responsibilities under this Act $160,195,000 for fiscal year 2004.

[(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration to carry out the Administrator's responsibilities under this Act $58,650,000 for fiscal year 2004.

[(d) NATIONAL INSTITUTES OF HEALTH.—There are authorized to be appropriated to the Director of the National Institutes to carry out the Director's responsibilities under this Act $49,680,000 for fiscal year 2004.

[(e) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out the Director's responsibilities under this Act $50,600,000 for fiscal year 2004.

[(f) ENVIRONMENTAL PROTECTION AGENCY.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the Administrator's responsibilities under this Act $5,750,000 for fiscal year 2004.

[(g) DEPARTMENT OF JUSTICE.—There are authorized to be appropriated to the Director of the National Institute of Justice to carry out the Director's responsibilities under this Act $1,610,000 for fiscal year 2004.

[(h) DEPARTMENT OF TRANSPORTATION.—There are authorized to be appropriated to

the Secretary of Transportation to carry out the Secretary's responsibilities under this Act $2,300,000 for fiscal year 2004.

[(i) DEPARTMENT OF AGRICULTURE.—There are authorized to be appropriated to the Secretary of Agriculture to carry out the Secretary's responsibilities under this Act $2,870,000 for fiscal year 2004.

[SEC. 7. SOCIETAL, ETHICAL, EDUCATIONAL, LEGAL, AND WORKFORCE ISSUES RELATED TO NANOTECHNOLOGY.

[(a) STUDIES.—The Director of the National Science Foundation shall encourage, conduct, coordinate, commission, collect, and disseminate studies on the societal, ethical, educational, and workforce implications of nanotechnology through the Center for Societal, Ethical, Educational, Legal, and Workforce Issues established under section 4(c)(5). The studies shall identify anticipated issues and problems, as well as provide recommendations for preventing or addressing such issues and problems.

[(b) DATA COLLECTION.—The Director of the National Science Foundation shall collect data on the size of the anticipated nanotechnology workforce need by detailed occupation, industry, and firm characteristics, and assess the adequacy of the trained talent pool in the United States to fill such workforce needs.

[(c) ANNUAL REPORT.—The Director of the National Science Foundation shall compile the studies required by paragraph (2) and, with the assistance of the Center for Societal, Ethical, Educational, Legal, and Workforce Issues Related to Nanotechnology established under section 4(c)(5) of this Act, shall complete a report that includes a description of the Center's activities, which shall be submitted to the President, the Council, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science not later than 18 months after the date of enactment of this Act.

[SEC. 8. DEFINITIONS.

[In this Act:

[(1) ADVISORY PANEL.—The term ''Advisory Panel'' means the President's National Nanotechnology Panel.

[(2) FUNDAMENTAL RESEARCH.—The term ''fundamental research'' means research that builds a fundamental understanding and leads to discoveries of the phenomena, processes, and tools necessary to control and manipulate matter at the nanoscale.

[(3) GRAND CHALLENGE.—The term ''grand challenge'' means a fundamental problem in science or engineering, with broad economic and scientific impact, whose solution will require the application of nanotechnology.

[(4) INTERDISCIPLINARY NANOTECHNOLOGY RESEARCH CENTER.—The term ''interdisciplinary nanotechnology research center'' means a group of 6 or more researchers collaborating across scientific and engineering disciplines on large-scale long-term research projects that will significantly advance the science supporting the development of nanotechnology or the use of nanotechnology in addressing scientific issues of national importance, consistent with the goals set forth in section 4(b).

[(5) NANOTECHNOLOGY.—The term ''nanotechnology'' means the ability to work at the molecular level, atom-by-atom, to create large structures with fundamentally new molecular organization.

[(6) PROGRAM.—The term ''program'' means the national nanotechnology research program established under section 4.

[(7) RESEARCH INFRASTRUCTURE.—The term ''research infrastructure'' means the measurement science, instrumentation, modeling and simulation, and user facilities needed to develop a flexible and enabling infrastructure so that United States industry can rapidly commercialize new discoveries in nanotechnology.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''21st Century Nanotechnology Research and Development Act''.

SEC. 2. NATIONAL NANOTECHNOLOGY PROGRAM.

(a) NATIONAL NANOTECHNOLOGY PROGRAM.—The President shall implement a National Nanotechnology Program. Through appropriate agencies, councils, and the National Nanotechnology Coordination Office established in subsection (d), the Program shall—

(1) Establish the goals, priorities, grand challenges, and metrics for evaluation for Federal nanotechnology research, development, and other activities;

(2) Invest in Federal research and development programs in nanotechnology and related sciences to achieve those goals; and

(3) Provide for interagency coordination of Federal nanotechnology research, development, and other activities undertaken pursuant to the Program.

(b) GOALS.—The goals of the National Nanotechnology Program shall include:

(1) Developing a fundamental understanding of matter that enables control and manipulation at the nanoscale.

(2) Ensuring United States global leadership in the development and application of nanotechnology.

(3) Advancing the United States productivity and industrial competitiveness through stable, consistent, and coordinated investments in long-term scientific and engineering research in nanotechnology.

(4) Developing a network of shared facilities and centers to foster partnerships among researchers in nanotechnology.

(5) Accelerating the deployment and application in the private sector, including startup companies, of nanoscale-related research and development.

(6) Providing effective education and training for researchers and professionals skilled in the multidisciplinary perspectives necessary for nanotechnology so that a true interdisciplinary research culture for nanoscale science, engineering, and technology can emerge.

(7) Ensuring that ethical, legal, environmental, and other appropriate societal concerns are considered during the development of nanotechnology, including safer sustainable nanoscience products and processing.

(c) PROGRAM MANAGEMENT.—The National Science and Technology Council shall oversee the planning, management, and coordination of the National Nanotechnology Program. The Council, itself or through an appropriate subgroup it designates or establishes, shall—

(1) establish a set of broad applications of nanotechnology research and development, or grand challenges, to be met by the results and activities of the Program, based on national needs;

(2) provide for interagency coordination of the Program, including with the activities of the Defense Nanotechnology Research and Development Program established under section 246 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314);

(3) develop, within 12 months after the date of enactment of this Act, and update every 4 years thereafter, a strategic plan to meet the goals and priorities established under subsection (b) and to guide the activities and anticipated outcomes of the participating agencies, including a description of how the Program will move results out of the laboratory and into application for the benefit of society, support for long-term funding for multidisciplinary research and development in technology, and dedication of funding for interagency nanotechnology projects;

(4) coordinate the budget requests of each of the agencies involved in the Program with the Office of Management and Budget to ensure that a balanced nanotechnology research portfolio is maintained in order to ensure the appropriate level of research effort;

(5) exchange information with academic, industry, State and local government (including State and regional nanotechnology programs), and other appropriate groups conducting research on and using nanotechnology;

(6) develop a plan to utilize Federal programs, such as the Small Business Innovation Research Program and the Small Business Technology Transfer Research Program, in support of the goal stated in subsection (b)(5);

(7) identify research areas that are not being adequately addressed by the agencies' current research programs;

(8) encourage progress on Program goals through the utilization of existing manufacturing facilities and industrial infrastructures such as, but not limited to, the employment of underutilized manufacturing facilities in areas of high unemployment as production engineering and research testbeds; and

(9) provide for, on a merit-reviewed, competitive basis, interdisciplinary nanotechnology research centers, which to the greatest extent possible, shall be established in geographically diverse centers including at least one center in a State participating in the National Science Foundation's (NSF) Experimental Program to Stimulate Competitive Research (EPSCoR), established under section 113 of the NSF Authorization Act of 1988 (42 U.S.C. 1862(g)) and shall encourage the participation of minority serving institutions at these centers.

(d) PROGRAM COORDINATION.—The President shall establish a National Nanotechnology Coordination Office, with full-time staff, which shall—

(1) provide technical and administrative support to the Council and the Advisory Panel;

(2) serve as the point of contact on Federal nanotechnology activities for government organizations, academia, industry, professional societies, State nanotechnology programs, interested citizen groups, and others to exchange technical and programmatic information;

(3) conduct public outreach, including dissemination of findings and recommendations of the Advisory Panel, as appropriate; and

(4) establish an office to promote access to and early application of the technologies, innovations, and expertise derived from Program activities to agency missions and systems across the Federal Government, and to United States industry, including startup companies.

(e) ANNUAL REPORT.—The Council shall prepare an annual report, to be submitted to the House of Representatives Committee on Science and the Senate Committee on Commerce, Science, and Transportation at the time of the President's budget request to Congress, that includes—

(1) the Program budget, for the current fiscal year, for each agency that participates in the Program, including a breakout of spending for the development and acquisition of research facilities and instrumentation, for each program component area, and for all activities pursuant to subsection (b)(7), which shall be submitted by December 31st of such year;

(2) the proposed Program budget for the next fiscal year, for each agency that participates in the Program, including a breakout of spending for the development and acquisition of research facilities and instrumentation, for each program component area, and for all activities pursuant to subsection (b)(7);

(3) an analysis of the progress made toward achieving the goals and priorities established for the Program;

(4) an analysis of the extent to which the Program has incorporated the recommendations of the Advisory Panel and the Center, established in section 7 of this Act; and

(5) an assessment of how Federal agencies are implementing the plan described in section

(c)(7), and a description of the amount of Small Business Innovative Research and Small Business Technology Transfer Research funds supporting the plan.

SEC. 3. ADVISORY PANEL.

(a) IN GENERAL.—The President shall establish or designate a National Nanotechnology Advisory Panel.

(b) QUALIFICATIONS.—The Panel established or designated by the President under subsection (a) shall consist primarily of individuals who are non-Federal members and shall include representatives of academia and industry. Members of such Panel shall be qualified to provide advice and information on nanotechnology research, development, demonstrations, education, technology transfer, commercial application, or societal and ethical concerns. In selecting or designating an Advisory Panel, the President may also seek and give consideration to recommendations from the Congress, industry, the scientific community (including the National Academy of Sciences), scientific professional societies, academia, the defense community, State and local governments, regional nanotechnology programs, and other appropriate organizations.

(c) DUTIES.—The Panel shall advise the President and the Council on matters relating to the Program, including assessing—

(1) trends and developments in nanotechnology science and engineering;

(2) progress made in implementing the Program;

(3) the need to revise the Program;

(4) the balance among the components of the Program, including funding levels for the program component areas;

(5) whether the Program component areas, priorities, and technical goals developed by the Council are helping to maintain United States leadership in nanotechnology;

(6) the management, coordination, implementation, and activities of the Program; and

(7) whether societal, ethical, environmental, and workforce concerns are adequately addressed by the Program.

(d) REPORTS.—The Advisory Panel shall report, not less frequently than once every 2 fiscal years, to the President, the Senate Committee on Commerce, Science, and Technology, and the House of Representatives Committee on Science on its assessments under subsection (c) and its recommendations for ways to improve the Program. The first report under this subsection shall be submitted within 1 year after the date of enactment of this Act.

(e) TRAVEL EXPENSES OF NON-FEDERAL MEMBERS.—Non-Federal members of the Panel, while attending meetings of the Panel or while otherwise serving at the request of the head of the Panel away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay. Nothing in this subsection shall be construed to prohibit members of the Panel who are officers or employees of the United States from being allowed travel expenses, including per diem in lieu of subsistence, in accordance with existing law.

SEC. 4. TRIENNIAL EXTERNAL REVIEW OF NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Director of the National Science Foundation shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a triennial evaluation of the National Nanotechnology Program, including—

(1) a review of the technical success of the Program in achieving the stated goals under the metrics established by the Program and the Advisory Panel, and under other appropriate measurements;

(2) a review of the Program's management and coordination across agencies and disciplines;

(3) a review of the funding levels by each agency for the Program's activities and their ability with such funding to achieve the Program's stated goals;

(4) recommendations for new or revised Program goals;

(5) recommendations for new research areas, partnerships, coordination and management mechanisms, or programs to be established to achieve the Program's stated goals;

(6) recommendations for investment levels by each participating agency in each Program funding area for the 5-year period following the delivery of the report;

(7) recommendations on policy, program, and budget changes with respect to nanotechnology research and development activities;

(8) recommendations for improved metrics to evaluate the success of the Program in accomplishing its stated goals;

(9) a review of the performance of the National Nanotechnology Coordination Office and its efforts to promote access to and early application of the technologies, innovations, and expertise derived from program activities to agency missions and systems across the Federal Government and to United States industry; and

(10) an analysis of the relative position of the United States compared to other nations with respect to nanotechnology research and development, including the identification of any critical research areas where the United States should be the world leader to best achieve the goals of the Program.

(b) EVALUATION TO BE TRANSMITTED TO CONGRESS.—The Director of the National Science Foundation shall transmit the results of any evaluation for which it made arrangements under subsection (a) to the Advisory Panel, the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science upon receipt. The first such evaluation shall be transmitted no later than June 10, 2005, with subsequent evaluations transmitted to the Committees every 3 years thereafter.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL SCIENCE FOUNDATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Director of the National Science Foundation to carry out the Director's responsibilities under this Act—

(A) $350,000,000 for fiscal year 2004;
(B) $385,000,000 for fiscal year 2005;
(C) $424,000,000 for fiscal year 2006;
(D) $449,000,000 for fiscal year 2007; and
(E) $476,000,000 for fiscal year 2008.

(2) SPECIFIC ALLOCATIONS.—

(A) INTERDISCIPLINARY NANOTECHNOLOGY RESEARCH CENTERS.—Of the amounts authorized by paragraph (1) for each fiscal year, $50,000,000 for each fiscal year shall be available for grants of up to $5,000,000 each for multidisciplinary nanotechnology research centers.

(B) AMERICAN NANOTECHNOLOGY PREPAREDNESS CENTER.—Of the amounts authorized by paragraph (1) for each fiscal year, $5,000,000 shall be used to establish and maintain a university-based American Nanotechnology Preparedness Center.

(C) NATIONAL NANOTECHNOLOGY COORDINATION OFFICE.— Of the sums authorized by paragraph (1) for each fiscal year, $5,000,000 shall be used for the activities of the Nanotechnology Coordination Office.

(D) MANUFACTURING TECHNOLOGIES FOR NANOMATERIALS.—Of the sums authorized by paragraph (1) for each fiscal year, $5,000,000 shall be used for the activities of the Center for Nanomaterials Manufacturing.

(b) DEPARTMENT OF ENERGY.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Energy to carry out the Secretary's responsibilities under this Act—

(A) $265,000,000 for fiscal year 2004;
(B) $292,000,000 for fiscal year 2005;
(C) $321,000,000 for fiscal year 2006;
(D) $340,000,000 for fiscal year 2007; and
(E) $360,000,000 for fiscal year 2008.

(2) ALLOCATION.—Of the sums authorized by paragraph (1) for each fiscal year, $25,000,000 shall be used on a merit-reviewed and competitive basis to support consortia that integrate newly developed nanotechnology and microfluidic tools with systems biology, immunology, and molecular imaging, of which at least 1 such consortium shall be provided with at least $10,000,000 for each fiscal year.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration to carry out the Administrator's responsibilities under this Act—

(1) $31,000,000 for fiscal year 2004;
(2) $34,100,000 for fiscal year 2005;
(3) $37,500,000 for fiscal year 2006;
(4) $40,000,000 for fiscal year 2007; and
(5) $42,300,000 for fiscal year 2008.

(d) NATIONAL INSTITUTES OF HEALTH.—There are authorized to be appropriated to the Director of the National Institutes to carry out the Director's responsibilities under this Act—

(1) $70,000,000 for fiscal year 2004;
(2) $77,000,000 for fiscal year 2005;
(3) $85,000,000 for fiscal year 2006;
(4) $90,000,000 for fiscal year 2007; and
(5) $95,000,000 for fiscal year 2008.

(e) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out the Director's responsibilities under this Act—

(1) $62,000,000 for fiscal year 2004;
(2) $68,200,000 for fiscal year 2005;
(3) $75,000,000 for fiscal year 2006;
(4) $80,000,000 for fiscal year 2007; and
(5) $84,000,000 for fiscal year 2008.

(f) ENVIRONMENTAL PROTECTION AGENCY.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the Administrator's responsibilities under this Act—

(1) $5,000,000 for fiscal year 2004;
(2) $5,500,000 for fiscal year 2005;
(3) $6,050,000 for fiscal year 2006;
(4) $6,413,000 for fiscal year 2007; and
(5) $6,800,000 for fiscal year 2008.

(g) DEPARTMENT OF JUSTICE.—There are authorized to be appropriated to the Director of the National Institute of Justice to carry out the Director's responsibilities under this Act—

(1) $1,000,000 for fiscal year 2004;
(2) $1,100,000 for fiscal year 2005;
(3) $1,210,000 for fiscal year 2006;
(4) $1,283,000 for fiscal year 2007; and
(5) $1,360,000 for fiscal year 2008.

(h) DEPARTMENT OF HOMELAND SECURITY.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out the Secretary's responsibilities under this Act—

(1) $2,000,000 for fiscal year 2004;
(2) $2,200,000 for fiscal year 2005;
(3) $2,420,000 for fiscal year 2006;
(4) $2,570,000 for fiscal year 2007; and
(5) $2,720,000 for fiscal year 2008.

(i) DEPARTMENT OF AGRICULTURE.—There are authorized to be appropriated to the Secretary of Agriculture to carry out the Secretary's responsibilities under this Act—

(1) $10,000,000 for fiscal year 2004;
(2) $11,000,000 for fiscal year 2005;
(3) $12,100,000 for fiscal year 2006;
(4) $12,830,000 for fiscal year 2007; and
(5) $13,600,000 for fiscal year 2008.

SEC. 6. AMERICAN NANOTECHNOLOGY PREPAREDNESS CENTER.

(a) IN GENERAL.—The Director of the National Science Foundation shall, on a merit-reviewed and competitive basis, establish a new American Nanotechnology Preparedness Center to encourage, conduct, coordinate, commission, collect, and disseminate research on the educational, legal, workforce, societal, and ethical issues related to nanotechnology.

(b) STUDIES.—The Director of the National Science Foundation, through the Center, shall conduct, coordinate, commission, collect, and disseminate studies on the educational, legal, workforce, societal, and ethical implications of nanotechnology. The studies shall identify anticipated issues and problems, as well as provide recommendations for preventing or addressing such issues and problems.

(c) WORKFORCE DATA.—The Director of the National Science Foundation shall collect data on the size of the anticipated nanotechnology workforce need by detailed occupation, industry, and firm characteristics, and assess the adequacy of the trained talent pool in the United States to fill such workforce needs.

(d) ANNUAL REPORT.—The Director of the National Science Foundation shall compile the studies required by paragraph (b) and, with the assistance of the Center, shall complete a report that includes a description of the Center's activities, which shall be submitted to the President, the Council, the Advisory Panel, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science not later than 18 months after the date of enactment of this Act.

SEC. 7. COMMERCIALIZATION ISSUES RELATED TO NANOSCIENCE AND NANOTECHNOLOGY.

(a) IN GENERAL.—The Director of the National Institute of Standards and Technology shall establish a center within NIST's Manufacturing Engineering Laboratory for issues relating to the commercialization of nanoscience and nanotechnology research. The program shall—

(1) conduct basic research on issues related to the development and manufacture of nanotechnology including—

(A) metrology;

(B) reliability and quality assurance;

(C) processes control; and

(D) manufacturing best practices; and

(2) in consultation with the National Technical Information Service and the National Nanotechnology Coordination Office, act as a clearinghouse for information related to commercialization of nanoscience and nanotechnology research, including—

(A) information relating activities by regional, state, and local commercial nanotechnology initiatives;

(B) transition of research, technologies, and concepts from Federal nanotechnology research and development programs into commercial and military products;

(C) best practices by government, university and private sector laboratories transitioning technology to commercial use;

(D) examples of ways to overcome barriers and challenges to technology deployment; and

(E) use of existing manufacturing infrastructure and workforce.

(b) USE OF MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.—The Director of the National Institute of Standards and Technology shall utilize the manufacturing extension partnership program to the extent possible to reach small and medium sized manufacturing companies.

(c) MANUFACTURING TECHNOLOGIES FOR NANOMATERIALS.—The Director of the National Science Foundation shall establish, on a merit-reviewed, competitive basis, a new Center for Nanomaterials Manufacturing to encourage the development and transfer of technologies for the manufacture of nanomaterials. The Center will encourage, conduct, coordinate, commission, collect, and disseminate research on new manufacturing technologies for materials with unprecedented combinations of strength, toughness, lightness, flame resistance, and membrane separation characteristics, and develop mechanisms to transfer such manufacturing technologies to United States industries.

SEC. 8. DEFINITIONS.

In this Act:

(1) ADVISORY PANEL.—The term ''Advisory Panel'' means the President's National Nanotechnology Panel established or designated under section 3.

(2) FUNDAMENTAL RESEARCH.—The term ''fundamental research'' means research that builds a fundamental understanding and leads to discoveries of the phenomena, processes, and tools necessary to control and manipulate matter at the nanoscale.

(3) NANOTECHNOLOGY.—The term ''nanotechnology'' means the ability to work at the molecular level, atom-by-atom, to create large structures with fundamentally new molecular organization.

(4) PROGRAM.—The term ''Program'' means the National Nanotechnology Program established under section 2.

(5) COUNCIL.—The term ''Council'' means the National Science and Technology Council or an appropriate subgroup designated by the Council under section 2(c).

(6) GRAND CHALLENGE.—The term ''grand challenge'' means a fundamental problem in science or engineering, with broad potential economic and scientific impact, the solution to which will require the application of nanotechnology research.

Mr. MCCAIN. Mr. President, I am pleased to join my colleagues, Senators ALLEN, WYDEN, HOLLINGS, and STEVENS in sponsoring this substitute amendment to S. 189, the 21st Century Nanotechnology Research and Development Act. I commend Senators ALLEN and WYDEN for their leadership on this important legislation, and also thank Senators STEVENS, LOTT, and SUNUNU and Chairman BOEHLERT and Ranking Member HALL of the House Science Committee, for their work on this issue.

Nanotechnology is a truly revolutionary field of science. Scientists have been able to develop materials and systems with dramatic new properties by manipulating structures and systems at the scale of 10^{-9} meters, or 1/100,000 the width of a human hair. This basic research has the potential to benefit virtually every sector of our economy, including biotechnology, telecommunications, national security, manufacturing, and computers. Some experts have projected that sales of products based on nanotechnology will reach $1 trillion by 2015. Many of our international economic competitors have begun to focus on this field. For example, the European Union budgeted $1.2 billion for nanotechnology research in 2003 and 2004.

This bill is designated to highlight the United States' interest and efforts in this emerging technology. The bill would authorize a coordinated research program across the Federal Government through a National Nanotechnology Program. In addition, it would authorize funding for nanotechnology research at the National Science Foundation, the National Aeronautics and Space Administration, the National Institute of Standards and Technology (NIST), the Department of Energy, and the Environmental Protection Agency from fiscal year 2005 through fiscal year 2008. I think that this multiyear authorization is important, because it signals to the Federal agencies, the States, and private industry our commitment to this important cutting-edge research.

In addition, it is important to point out that the legislation deals with more than just basic research. The bill includes provisions that will ensure that social, ethical, environmental, educational, legal, and workforce issues will be analyzed, including the creation of a new center on a merit-reviewed, competitive basis to study these issues. The bill also would establish a program at NIST to conduct basic research on metrology and other issues relating to nanotechnology-based manufacturing. In addition, the bill would authorize the Secretary of Commerce, or his designee, to establish a clearinghouse of information for issues relating to nanotechnology commercialization. It is important that the private sector has access to this basic research in nanotechnology, so that United States can attain a competitive edge in this new field.

I thank my colleagues for their support of this important legislation.

Mr. HOLLINGS. Mr. President, I am proud to cosponsor S. 189, the 21st Century Nanotechnology Research and Development Act. With this legislation, the Senate recognizes the emerging field of nanotechnology and its importance to the United States economy. I thank my colleagues for their efforts. I particularly thank Senator WYDEN for his leadership and maturity in guiding this bill to the floor. There were several times when this bill was going to be derailed and each time Senator WYDEN stepped in to get us back on track.

Nanotechnology has been described as the next Industrial Revolution that will drastically alter the way products are manufactured. Yet we are not alone as other countries are competing to push the boundaries of this technical frontier. Countries such as Japan and the European Union are already spending hundreds of millions of dollars on nanotechnology research. The United States cannot afford to fall behind if we want to maintain our economic strength. This legislation is one step towards ensuring America's leadership and economic competitiveness in nanotechnology.

This legislation is an affirmation that the United States will continue to play a leading role in the development of nanotechnology. It authorizes $784 million for fiscal year 2005 for five Federal agencies involved in nanotechnology research. Although other agencies were not included in this bill, I am hopeful that they will contribute to the National Nanotechnology Program. The legislation provides interagency coordination to the Federal Government's nanotechnology research and development efforts. The establishment of a National Nanotechnology Coordination Office will infuse an organized, structured, and collaborative approach to this research. The legislation also calls for the development of a strategic plan that will provide a roadmap for the country's research and development future.

Nanotechnology is a new frontier and we want to ensure that it is developed

responsibly. That is why I pushed for the creation of the American Nanotechnology Preparedness Center. This Center is charged with ensuring that societal, ethical, and environmental concerns surrounding nanotechnology are properly addressed as research progresses. This is vital as we see more and more of nanotechnology in everyday life, we need to assure citizens that this new technology is safe and non-threatening.

In addition to the American Nanotechnology Preparedness Center, this legislation also establishes a Nanotechnology Advisory Panel. The National Academies of Sciences recommended an Advisory Panel in its review of the National Nanotechnology Initiative. I am proud to support its creation in this legislation. I think that it is vital that the President receive advice from dedicated experts directly involved in this field, from the scientists and researchers who are at the forefront of this technology, rather than from advisors who are appointed to serve other technical advisory roles.

One of this country's main strengths is our ability to innovate. Nanotechnology will be the next test as to whether we can continue to move forward. There remains a tremendous amount of basic research that needs to be undertaken in order to fully understand the science behind it all. This is exactly the role that Federal Government should play: to promote scientific knowledge that will benefit our society and our economic competitiveness. This bill does exactly that and I am proud to support it.

I thank the House Science Committee for their cooperation. I also thank the other cosponsors, particularly Senators LIEBERMAN and CLINTON as well as Senators ALLEN, MCCAIN, STEVENS, MIKULSKI, LANDRIEU, LEVIN, BAYH, CANTWELL, CORZINE, HUTCHINSON, KERRY, LAUTENBERG, BAUCUS, ROCKEFELLER, ALEXANDER, and WARNER for their support. In particular, I would also like to thank the staff who put this bill together. In addition to my staff, we enjoyed the hard work of Ruchi Bhowmik with Senator WYDEN, Liz Connell with Senator STEVENS, Ken La Sala with the Senate Commerce Committee, Frank Cavaliere with Senator ALLEN, Mike O'Reilly with Senator SUNUNU, and Michael Yentzen with Senator LOTT.

Mr. WYDEN. Mr. President, I am pleased to introduce a substitute text for S. 189, the 21st Century Nanotechnology Research and Development Act. I thank Commerce Committee Chairman MCCAIN, Ranking Member HOLLINGS, and my colleagues Senators ALLEN, CLINTON and LIEBERMAN for their tremendous bipartisan assistance and cooperation. With this bill, we pave the way for greater discoveries and applications in an area that will soon become a major economic driver for this country.

The 21st Century Nanotechnology Research and Development Act will provide a smart, accelerated, and organized approach to nanotechnology research, development, and education. This legislation will marshal America's nanotechnology efforts that are spread out across the State and Federal levels into one driving force. This bill will develop much needed strategic interagency cooperation and coordination through a National Nanotechnology Program. A National Nanotechnology Advisory Panel will advise the President on nanotechnology matters and the American Nanotechnology Preparedness Center will evaluate important workforce and ethical issues to ensure that societal and citizen concerns about nanotechnology are addressed now—at the outset of this science—and will support, not hinder, the development of this important science.

As I have said before, nanotechnology has the potential to change America on a scale equal to, if not greater than, the computer revolution. Nanoparticles and nanodevices will become the building blocks of our health care, agriculture, manufacturing, environmental cleanup, and even national security. By getting behind nanotechnology now with organized, goal-oriented support, the Federal Government will play a pivotal role in keeping the United States at the forefront of this discipline.

It is estimated that nanotechnology will become a trillion-dollar industry over the next 10 years. With the Nation's unemployment still high and real economic recovery still out of reach, nanotechnology holds the promise of new trade and jobs needed to jump start the economy. As the nanotechnology industry grows, the ranks of skilled workers needed to discover and apply its capabilities must grow too. In the nanotechnology revolution, areas of high unemployment could become magnets for domestic production, engineering and research for nanotechnology applications. I am determined that the United States will mine the opportunities of nanotechnology and this legislation will ensure that the United States takes full advantage of the opportunities nanotechnology presents.

Our Nation's current National Nanotechnology Initiative is a step in the right direction. This nation has already committed substantial funds to nanotechnology research and development in the coming years. But funding is not enough. There must be careful planning to make sure that money is used for sound science over the long-term. That is the reason for the substitute amendment to S. 189 I introduce today. The strategic planning it prescribes will ensure that scientists get the support they need to realize nanotechnology's greatest potential.

With this bill, Congress is challenging the government to accept new responsibilities in promoting and developing nanotechnology. Again, I thank the House Science Committee and House Science Chairman BOEHLERT for their cooperation and I thank the other cosponsors, Senators ALEXANDER, WARNER, MIKULSKI, LANDRIEU, LEVIN, BAYH, CANTWELL, CORZINE, HUTCHISON, KERRY, LAUTENBERG, BAUCUS, and ROCKEFELLER, for their valuable assistance. I am also pleased to report that this amendment has the support of nanotechnology industry members, such as the Nano Business Alliance. This amended version is the work of bipartisan and bi-cameral cooperation and I look forward to working with my colleagues to get this to the President's desk.

INCLUSION OF BIOTECHNOLOGY

Mr. WYDEN. Mr. President, I rise to clarify the legislative intent of S. 189, the 21st Century Nanotechnology Research and Development Act. In reviewing the section of the substitute text dealing with the purpose and definitions of fundamental research in nanotechnology that our bill references, I believe that they are not intended to limit research and development to the physical sciences and are intended to include a wide variety of research, including the biotechnology-nanotechnology interface. Senator STEVENS, is that your reading of this legislation?

Mr. STEVENS. I agree with the Senator from Oregon. It is our intention to include research into the biotechnology-nanotechnology interface. We did not mention specific areas or research because we did not intend to be overly restrictive.

Mr. WYDEN. I would just like to take a moment to clarify some of the types of nanotechnology applications that are possible through the research involving biotechnology at the nano-level, which are encompassed by this legislation These examples include applications ranging from industrial manufacturing to advances in medicine to breakthroughs in defense against bioterrorism.

For instance, biotechnology is spurring the development of proteins that will be capable of manufacturing biological structures on the nano-scale. This technology will allow the development of nano-electronics such as micro-transistors and silicon chips. In the area of photonics there is potential for developing new micro-optical switches and optical micro-processing platforms.

Researchers recently discovered a first of its kind carbon-silicon compound in freshwater diatoms. This discovery promises to open the door to understanding the molecular process of biosilicification, or the ways plants and animals build natural structures. This understanding may lead to applications ranging from low cost synthesis of advanced biomaterials to new treatments for osteoporosis.

These are only a few examples of advances made through the interface between biotechnology and nanotechnology. I just want to confirm this legislation should help facilitate

the synergy between the biological sciences and material sciences.

Mr. STEVENS. These examples are exactly the type of research that we have intended to cover in this legislation. Beyond industrial applications there are many health care applications of nano-biotechnology.

I am particularly excited about the potential for nanotechnology in the area of systems biology and molecular imaging. Systems biology analyzes all of the elements in a system, rather than an individual cell, gene or protein. By applying nanotechnology to systems biology and using molecular imaging, it will be possible to achieve ultra-rapid diagnostic results by analyzing on a molecular level the signatures of thousands of genes and proteins. Moreover, the systems approach in combination with nanotechnology will speed up and greatly reduce the cost of discovering new drugs. This will lead to the advancement of predictive medicine generating revolutions in the diagnosis, treatment and prevention of disease.

Given nanotechnology's tremendous potential in health care, I want to encourage the National Institutes of Health (NIH) to be proactive participants in the nanotechnology revolution. Although a specific authorization of appropriations for NIH is not included in this bill at the request of our House colleagues, it is expected that NIH will be an active participant in the National Nanotechnology Program.

Mr. WYDEN. I thank the distinguished Senator from Alaska for clarification of this matter and I wholeheartedly agree with him regarding the potential benefits of nanotechnology in the field of health care.

Mr. SUNUNU. Mr. President, this legislation is the product of many, many hours of debate and discussion. I appreciate the commitment of the Chairman of the Commerce Committee, Senator MCCAIN, and the sponsors of the bill, Senators WYDEN and ALLEN, to try to address my concerns and accommodate my views on this bill. I appreciate the indulgence of the Ranking Member, Senator HOLLINGS, for his understanding and assistance on this bill. Through persistence and thoughtful consideration by a handful of interested Members in both bodies, an agreement was reached on a legislative package that has brought us to this stage of the process. While I still have significant reservations, I am willing to allow the bill to proceed forward.

Nanotechnology is a burgeoning field of inquiry that has captured the interest of many of our nation's brightest scientific minds. While the concepts behind the study of nanotechnology are not necessarily new, recent successes have highlighted its enormous potential. If early experiences are an indication of things to come, nanotechnology has the capability to dramatically change our approach to a wide range of complex scientific problems. By understanding materials and compounds at the molecular or atomic level, scientists can develop techniques to improve the properties of everything from medicines to metals; machines to microchips.

S. 189 is meant to complement, rather than restrain, the work that the Bush administration is already doing on the issue of nanotechnology. This administration is deeply committed to expending the resources and conducting research on critical areas of nanotechnology and nanoscale science and engineering. The administration's ''National Nanotechnology Initiative'' is on track to commit almost $900 million in FY 2004 for nanotechnology research within appropriate Federal agencies. In addition, the administration has already established a National Nanotechnology Coordination Office to facilitate and coordinate the muli-agency effort. It is essential that S. 189 not infringe on the good work already being done by the administration on this issue or on the near- or mid-term plans for further work in this area.

Despite this progress, I have several concerns about the underlying text of the managers' amendment, and for that matter, the original version of S. 189. I firmly believe that oversight is an important function of the Senate, and an important part of that oversight is to ensure that Federal funds are spent appropriately. However the Managers' Amendment creates redundant reporting requirements for various agencies within the Administration. By my count, the bill includes annual, biennial and triennial reporting obligations by the National Science and Technology Council, the National Nanotechnology Advisory Panel, and the National Academy of Sciences, respectively. These reports have a number of overlapping components that will result in the checking and rechecking of similar questions and issues. It is important to note that Congressional studies and reporting requirements impose very significant costs on the reporting agencies, thereby draining funds from the very projects and research we are trying to fund.

S. 189 also authorizes the establishment of several interdisciplinary and specialized research centers on nanotechnology. The language of the bill requires that the process for establishing these centers be on a merit-reviewed and competitive basis. Let me serve notice to those involved in the establishment of these centers: I will work to ensure that any center established pursuant to this bill be placed at the most appropriate setting possible. I know this sentiment is shared by the Chairman of the Commerce Committee and other Members of the Senate, and I look forward to working with them to ensure that the principles of merit-review and competitive basis are upheld.

Finally, let me mention that there are concerns expressed by individuals within the academic and scientific communities and by general citizens that research and development of nanotechnology could possibly spiral out of control leading to the harmful impacts on humans. Some people have expressed concern that nanotechnology will lead to a super-race of humans or a situation where nano-machines attack or even dominate human beings. Others argue that there are uncertainties about the impact of nanotechnologies on important aspects of our daily lives, including our society, environment, ethics, educational systems, legal structure or workforce. While I do not dismiss the possible negative ramifications of the study and realization of nanotechnology, I believe those possible dangers are remote and avoidable. Almost all scientific research or new technology can be used for mischievous purposes. Moreover, there are potential implications by the use of nanotechnology that should be examined as part of research projects and development stages of nanotechnology. However, the emphasis that S. 189 provides to these issues is more than I would have considered necessary. We cannot and should not fear the technological future; we should pay it proper respect and plan for it accordingly.

In closing, it is my understanding that the product of today's Senate work on this bill will likely be taken up and passed by the House and sent to the President for his consideration. I look forward to the multiple advances that will occur from the statutory framework provided under this bill. Our action today will signal to the research community the importance and significance we place on this field of study, and this will spur further investment by the private sector and hopefully lead to the technological breakthrough that will ignite further innovation and economic growth.

Mr. LIEBERMAN. Mr. President, the emerging field of nanotechnology constitutes an opportunity for the U.S. to claim global leadership in a new frontier in science and technology that has the potential to transform every aspect of our lives. By manipulating matter at a molecular scale, nanotechnology will allow us to develop new materials and devices that have unique properties currently beyond the realm of conventional technology. Nanotechnology is what scientists and technologists often call an enabling technology—a tool that opens the door to new possibilities constrained only by physics and the limits of our imaginations. This field has the great potential to affect our economy and quality of life since it has such broad prospective applications in so many different areas including medicine, electronics, energy, telecommunications, computing, and manufacturing. It has been estimated that the impact of nanotechnology on existing and new manufacturing will be in the trillions of dollars. In addition to creating new job opportunities, this exciting new initiative has the potential

to provide novel therapeutic treatments and a fundamental understanding of diseases including cancer. For example, research in building innovative tools to study biology at the nanometer scale will unlock mysteries and shed light on the vast number of biological processes. The new authorizing legislation the Senate is passing today, which I am pleased to have played a role in, should be an important step in this effort.

Yet, despite the enormous potential that nanotechnology offers, it is not an area in which we have assumed uncontested leadership. From an international perspective, the United States faces the danger of falling behind its Asian and European counterparts in supporting the pace of nanotechnological advancement. While our Nation certainly possesses the raw resources and talent to lead the world in developing this technology, it is also clear that a long-term focus and sustained commitment, as well as new collaboration between Government, academia, and industry, will be needed to ensure our place at the head of the next wave of innovation.

In recognition of the need to support ongoing nanotechnology efforts and to spur new ones, I was pleased to join Senator RON WYDEN in cosponsoring the original ''21st Century Nanotechnology Research and Development Act'' last year, which was reintroduced this year S. 189. My staff worked with the Commerce Committee on the initial drafting of this bill, and I was able to assist in including parallel legislation in last year's defense authorization P.L. 107–314, section 246 to help assure that Department of Defense research and development in nanotechnology works in concert with the civilian agencies covered by this bill. Much of the original Senate bill is retained in this final legislation. The revised S. 189 legislation we act on today, which we anticipate will also soon be approved by the House, will build on the efforts of the National Nanotechnology Initiative NNI, which was started under President Clinton and has received continued support under President Bush, to establish a comprehensive, intelligently coordinated program for addressing the full spectrum of challenges confronting a successful national science and technology effort, including those related to funding, coordination, infrastructure development, technology transition, and social issues.

The time is now ripe to elevate the U.S. nanotechnology effort beyond the level of an Executive Branch initiative. Funding for nanotechnology will soon reach $1 billion a year, and the NNI currently attempts to coordinate programs across a wide range of Federal agencies and departments. This level of funding and the major coordination challenges that arise with so many diverse participants require having a program that is based in statute, provided with greater support and coordination mechanisms, afforded a higher profile, and subjected to constructive Congressional oversight and support.

The final legislation closely tracks many of the recommendations of the National Research Council, NRC, which completed a thorough review of the NNI in 2002. The NRC report commended the leadership and multi-agency involvement of the NNI, and its recommendations included the establishment of an independent advisory panel. As the field of nanotechnology covers a wide variety of disciplines including engineering, physics, chemistry and life sciences, guidance is needed from a panel composed of experts from each of the disciplines. A comprehensive perspective is necessary for helping to set the directions and goals of the national program, including advice on the focus of research that should be conducted in the academia sector, as well as assistance in the transition of technology from academic into the private sector that will ensure the competitiveness of U.S. industry. Although members of the Presidents Council of Advisors on Science and Technology, PCAST, which the President is likely to select as the advisory body under section 4 in the final bill, are highly accomplished and esteemed, they are not necessarily steeped in the field of nanotechnology. Therefore, our expectation is that PCAST will set up its own nanotechnology panel composed of experts from both academia and industry representing the key nanotechnology disciplines. This independent panel should work in coordination with the National Science and Technology Council and the new Program Office, particularly across stove piped agency boundaries to better assure a fully integrated, crosscutting, interdisciplinary research effort. Otherwise, the promise of this research will not be realized.

To ensure that the United States takes the lead in this new and promising field of science and technology, we must provide for the organization and guidance necessary to foster interaction between Government, academia, and industry, so as to maximize the potential benefits of nanotechnology to our economy. This legislation provides a strong foundation and comprehensive framework that elicits contributions from all three sectors of our society in pushing nanotechnology research and development to the next level. I hope that we may all work together in a bipartisan fashion on implementing this bill to set the stage for U.S. economic growth over the next century.

Mrs. CLINTON. Mr. President, as an original co-sponsor of S. 189, the 21st Century Nanotechnology Research and Development Act, I am delighted that the Senate is acting on this important legislation. I want to thank my Senate colleagues, particularly Senator HOLLINGS and Senator WYDEN. Senator HOLLINGS' leadership on the Senate Commerce, Science and Transportation Committee was essential in winning the passage of this legislation, which has so much promise for New Yorkers and Americans generally. Senator WYDEN has helped to shepherd this legislation through the Senate with his customary vision, determination and skill.

In ten or twenty years, we may well view this legislation as one of the most important bills passed by the 108th Congress. The bill provides multi-year authorization for increased Federal research and development investment in nanotechnology. Experts believe that nanotechnology could have an impact on our economy and society as significant as the impact of the steam engine, electricity, the Internet, and the computer chip. Researchers and high-tech start-ups have already identified many potential benefits and applications of nanotechnology in health, energy and the environment, information and communications technology, advanced materials, manufacturing, and national security. It is possible that nanotechnology could lead to solar energy that is competitive with fossil fuels. Medical researchers are already working on using nanotechnology to develop tools for the diagnosis and therapy of cancer.

In addition to funding research in nanoscale science and engineering, the legislation also supports exploration of the ethical and social dimensions of nanotechnology. I want to underline the importance of this component of the legislation. These provisions are intended to help ensure that we use this information to make intelligent decisions about the benefits and risks of this powerful new technology. We have a responsibility to ensure that appropriate safeguards are placed on the exploration of nanoscience and technology and that Congress exercises effective oversight of this process. I will work hard with my colleagues to ensure that Congress does its part.

I am proud to say that New York is playing a leading role in the development of nanotechnology, and is already seeing concrete benefits from the National Nanotechnology Initiative. Three of the six university-based centers of nanotechnology funded by the National Science Foundation in 2001 are located at New York's world-class research centers at Cornell University, Columbia University and Rennselaer Polytechnic Institute. Long Island's Brookhaven National Laboratory is the future home of the Center for Functional Nanomaterials, supported by the Department of Energy. The State of New York and International SEMATECH and its member companies are planning to provide approximately $400 million in support to create a next-generation computer chip research and development facility at the University at Albany-SUNY. All of these investments are creating the foundations for future economic growth and the creation of high-tech, high-wage jobs, including in upstate New York.

The 21st Century Nanotechnology Research and Development Act shows what this Nation is capable of when we come together and set aside partisan differences. The National Nanotechnology Initiative was launched by President Clinton in January 2000, and has continued to enjoy bipartisan support from President Bush and members of Congress.

I urge my colleagues to continue to pay attention to nanotechnology after this legislation is passed. In many respects, this legislation is only the first step. As President Clinton noted when unveiling the National Nanotechnology Initiative, realizing the full promise of this technology may take twenty years of sustained investment. America's lead in this critical technology is by no means assured. Moreover, this legislation will not result in an extra dime being devoted to nanotechnology research, unless the legislation is followed by steadfast support for federal research and development in the budget and appropriations process.

I hope that the Administration and the Congress look for ways to build on and strengthen the current initiative. I believe that there are many such opportunities. The National Institutes of Health have targeted a relatively modest amount of funding for the NNI, despite the broad range of nanotechnology applications for health and biology. In addition, I hope we can increase the Environmental Protection Agency's budget for nanotechnology because it has a role to play in a variety of settings, including pollution prevention. We should also explore ways to respond to calls for the development of clean sources of energy using nanotechnology.

This legislation is a bold step in the direction of creating a brighter and more prosperous future for all Americans. In the years ahead, I look forward to continue working with my colleagues on both sides of the aisle to ensure the full development of this important initiative.

Mr. BINGAMAN. Mr. President, I rise to support the passage of S. 189, the 21st Century Nanotechnology Research and Development Act. I appreciate Senator WYDEN's leadership on this issue and the cooperation of him and the other sponsors of this legislation in responding to a number of concerns I had with the original bill, and in particular with the provisions of the bill authorizing programs at the U.S. Department of Energy. In the last Congress, I introduced legislation on this topic, S. 90, which was referred to the Committee on Energy and Natural Resources. That bill provided authorizations for nanotechnology programs in the Department of Energy which are now incorporated, in a streamlined form, in this bill. This is a good bill for our country's high technology future, and I urge that it be passed.

Mr. REID. Mr. President, I make the following parliamentary inquiry: This bill, which deals with nanotechnology programs across the Federal Government, was referred to the Committee on Commerce, Science and Transportation. It is not true the Senate procedures provide for a case in which a future bill amending a particular public law might be referred to a different committee than the one originally assigned the public law, if that future bill consisted of amendments to parts of the public law that were in the jurisdiction of the different committee; is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. I thank the Chair.

Mr. FRIST. Mr. President, I ask unanimous consent that the Allen-Wyden amendment at the desk be agreed to, the committee-reported substitute amendment, as amended, be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2202) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments''.)

The committee amendment, as amended, was agreed to.

The bill (S. 189), as amended, was read the third time and passed, as follows:

S. 189

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 ''21st Century Nanotechnology Research and Development Act''.

SEC. 2. NATIONAL NANOTECHNOLOGY PROGRAM.

(a) NATIONAL NANOTECHNOLOGY PROGRAM.—The President shall implement a National Nanotechnology Program. Through appropriate agencies, councils, and the National Nanotechnology Coordination Office established in section 3, the Program shall—

(1) establish the goals, priorities, and metrics for evaluation for Federal nanotechnology research, development, and other activities;

(2) invest in Federal research and development programs in nanotechnology and related sciences to achieve those goals; and

(3) provide for interagency coordination of Federal nanotechnology research, development, and other activities undertaken pursuant to the Program.

(b) PROGRAM ACTIVITIES.—The activities of the Program shall include—

(1) developing a fundamental understanding of matter that enables control and manipulation at the nanoscale;

(2) providing grants to individual investigators and interdisciplinary teams of investigators;

(3) establishing a network of advanced technology user facilities and centers;

(4) establishing, on a merit-reviewed and competitive basis, interdisciplinary nanotechnology research centers, which shall—

(A) interact and collaborate to foster the exchange of technical information and best practices;

(B) involve academic institutions or national laboratories and other partners, which may include States and industry;

(C) make use of existing expertise in nanotechnology in their regions and nationally;

(D) make use of ongoing research and development at the micrometer scale to support their work in nanotechnology; and

(E) to the greatest extent possible, be established in geographically diverse locations, encourage the participation of Historically Black Colleges and Universities that are part B institutions as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) and minority institutions (as defined in section 365(3) of that Act (20 U.S.C. 1067k(3))), and include institutions located in States participating in the Experimental Program to Stimulate Competitive Research (EPSCoR);

(5) ensuring United States global leadership in the development and application of nanotechnology;

(6) advancing the United States productivity and industrial competitiveness through stable, consistent, and coordinated investments in long-term scientific and engineering research in nanotechnology;

(7) accelerating the deployment and application of nanotechnology research and development in the private sector, including startup companies;

(8) encouraging interdisciplinary research, and ensuring that processes for solicitation and evaluation of proposals under the Program encourage interdisciplinary projects and collaborations;

(9) providing effective education and training for researchers and professionals skilled in the interdisciplinary perspectives necessary for nanotechnology so that a true interdisciplinary research culture for nanoscale science, engineering, and technology can emerge;

(10) ensuring that ethical, legal, environmental, and other appropriate societal concerns, including the potential use of nanotechnology in enhancing human intelligence and in developing artificial intelligence which exceeds human capacity, are considered during the development of nanotechnology by—

(A) establishing a research program to identify ethical, legal, environmental, and other appropriate societal concerns related to nanotechnology, and ensuring that the results of such research are widely disseminated;

(B) requiring that interdisciplinary nanotechnology research centers established under paragraph (4) include activities that address societal, ethical, and environmental concerns;

(C) insofar as possible, integrating research on societal, ethical, and environmental concerns with nanotechnology research and development, and ensuring that advances in nanotechnology bring about improvements in quality of life for all Americans; and

(D) providing, through the National Nanotechnology Coordination Office established in section 3, for public input and outreach to be integrated into the Program by the convening of regular and ongoing public discussions, through mechanisms such as citizens' panels, consensus conferences, and educational events, as appropriate; and

(11) encouraging research on nanotechnology advances that utilize existing processes and technologies.

(c) PROGRAM MANAGEMENT.—The National Science and Technology Council shall oversee the planning, management, and coordination of the Program. The Council, itself or through an appropriate subgroup it designates or establishes, shall—

(1) establish goals and priorities for the Program, based on national needs for a set of broad applications of nanotechnology;

(2) establish program component areas, with specific priorities and technical goals, that reflect the goals and priorities established for the Program;

(3) oversee interagency coordination of the Program, including with the activities of the Defense Nanotechnology Research and Development Program established under section 246 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) and the National Institutes of Health;

(4) develop, within 12 months after the date of enactment of this Act, and update every 3 years thereafter, a strategic plan to guide the activities described under subsection (b), meet the goals, priorities, and anticipated outcomes of the participating agencies, and describe—

(A) how the Program will move results out of the laboratory and into application for the benefit of society;

(B) the Program's support for long-term funding for interdisciplinary research and development in nanotechnology; and

(C) the allocation of funding for interagency nanotechnology projects;

(5) propose a coordinated interagency budget for the Program to the Office of Management and Budget to ensure the maintenance of a balanced nanotechnology research portfolio and an appropriate level of research effort;

(6) exchange information with academic, industry, State and local government (including State and regional nanotechnology programs), and other appropriate groups conducting research on and using nanotechnology;

(7) develop a plan to utilize Federal programs, such as the Small Business Innovation Research Program and the Small Business Technology Transfer Research Program, in support of the activity stated in subsection (b)(7);

(8) identify research areas that are not being adequately addressed by the agencies' current research programs and address such research areas;

(9) encourage progress on Program activities through the utilization of existing manufacturing facilities and industrial infrastructures such as, but not limited to, the employment of underutilized manufacturing facilities in areas of high unemployment as production engineering and research testbeds; and

(10) in carrying out its responsibilities under paragraphs (1) through (9), take into consideration the recommendations of the Advisory Panel, suggestions or recommendations developed pursuant to subsection (b)(10)(D), and the views of academic, State, industry, and other appropriate groups conducting research on and using nanotechnology.

(d) ANNUAL REPORT.—The Council shall prepare an annual report, to be submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science, and other appropriate committees, at the time of the President's budget request to Congress, that includes—

(1) the Program budget, for the current fiscal year, for each agency that participates in the Program, including a breakout of spending for the development and acquisition of research facilities and instrumentation, for each program component area, and for all activities pursuant to subsection (b)(10);

(2) the proposed Program budget for the next fiscal year, for each agency that participates in the Program, including a breakout of spending for the development and acquisition of research facilities and instrumentation, for each program component area, and for all activities pursuant to subsection (b)(10);

(3) an analysis of the progress made toward achieving the goals and priorities established for the Program;

(4) an analysis of the extent to which the Program has incorporated the recommendations of the Advisory Panel; and

(5) an assessment of how Federal agencies are implementing the plan described in subsection (c)(7), and a description of the amount of Small Business Innovative Research and Small Business Technology Transfer Research funds supporting the plan.

SEC. 3. PROGRAM COORDINATION.

(a) IN GENERAL.—The President shall establish a National Nanotechnology Coordination Office, with a Director and full-time staff, which shall—

(1) provide technical and administrative support to the Council and the Advisory Panel;

(2) serve as the point of contact on Federal nanotechnology activities for government organizations, academia, industry, professional societies, State nanotechnology programs, interested citizen groups, and others to exchange technical and programmatic information;

(3) conduct public outreach, including dissemination of findings and recommendations of the Advisory Panel, as appropriate; and

(4) promote access to and early application of the technologies, innovations, and expertise derived from Program activities to agency missions and systems across the Federal Government, and to United States industry, including startup companies.

(b) FUNDING.—The National Nanotech nology Coordination Office shall be funded through interagency funding in accordance with section 631 of Public Law 108–7.

(c) REPORT.—Within 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science on the funding of the National Nanotechnology Coordination Office. The report shall include—

(1) the amount of funding required to adequately fund the Office;

(2) the adequacy of existing mechanisms to fund this Office; and

(3) the actions taken by the Director to ensure stable funding of this Office.

SEC. 4. ADVISORY PANEL.

(a) IN GENERAL.—The President shall establish or designate a National Nanotechnology Advisory Panel.

(b) QUALIFICATIONS.—The Advisory Panel established or designated by the President under subsection (a) shall consist primarily of members from academic institutions and industry. Members of the Advisory Panel shall be qualified to provide advice and information on nanotechnology research, development, demonstrations, education, technology transfer, commercial application, or societal and ethical concerns. In selecting or designating an Advisory Panel, the President may also seek and give consideration to recommendations from the Congress, industry, the scientific community (including the National Academy of Sciences, scientific professional societies, and academia), the defense community, State and local governments, regional nanotechnology programs, and other appropriate organizations.

(c) DUTIES.—The Advisory Panel shall advise the President and the Council on matters relating to the Program, including assessing—

(1) trends and developments in nanotechnology science and engineering;

(2) progress made in implementing the Program;

(3) the need to revise the Program;

(4) the balance among the components of the Program, including funding levels for the program component areas;

(5) whether the program component areas, priorities, and technical goals developed by the Council are helping to maintain United States leadership in nanotechnology;

(6) the management, coordination, implementation, and activities of the Program; and

(7) whether societal, ethical, legal, environmental, and workforce concerns are adequately addressed by the Program.

(d) REPORTS.—The Advisory Panel shall report, not less frequently than once every 2 fiscal years, to the President on its assessments under subsection (c) and its recommendations for ways to improve the Program. The first report under this subsection shall be submitted within 1 year after the date of enactment of this Act. The Director of the Office of Science and Technology Policy shall transmit a copy of each report under this subsection to the Senate Committee on Commerce, Science, and Technology, the House of Representatives Committee on Science, and other appropriate committees of the Congress.

(e) TRAVEL EXPENSES OF NON-FEDERAL MEMBERS.—Non-Federal members of the Advisory Panel, while attending meetings of the Advisory Panel or while otherwise serving at the request of the head of the Advisory Panel away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the government serving without pay. Nothing in this subsection shall be construed to prohibit members of the Advisory Panel who are officers or employees of the United States from being allowed travel expenses, including per diem in lieu of subsistence, in accordance with existing law.

(f) EXEMPTION FROM SUNSET.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Panel.

SEC. 5. TRIENNIAL EXTERNAL REVIEW OF THE NATIONAL NANOTECHNOLOGY PROGRAM.

(a) IN GENERAL.—The Director of the National Nanotechnology Coordination Office shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a triennial evaluation of the Program, including—

(1) an evaluation of the technical accomplishments of the Program, including a review of whether the Program has achieved the goals under the metrics established by the Council;

(2) a review of the Program's management and coordination across agencies and disciplines;

(3) a review of the funding levels at each agency for the Program's activities and the ability of each agency to achieve the Program's stated goals with that funding;

(4) an evaluation of the Program's success in transferring technology to the private sector;

(5) an evaluation of whether the Program has been successful in fostering interdisciplinary research and development;

(6) an evaluation of the extent to which the Program has adequately considered ethical, legal, environmental, and other appropriate societal concerns;

(7) recommendations for new or revised Program goals;

(8) recommendations for new research areas, partnerships, coordination and management mechanisms, or programs to be established to achieve the Program's stated goals;

(9) recommendations on policy, program, and budget changes with respect to

nanotechnology research and development activities;

(10) recommendations for improved metrics to evaluate the success of the Program in accomplishing its stated goals;

(11) a review of the performance of the National Nanotechnology Coordination Office and its efforts to promote access to and early application of the technologies, innovations, and expertise derived from Program activities to agency missions and systems across the Federal Government and to United States industry;

(12) an analysis of the relative position of the United States compared to other nations with respect to nanotechnology research and development, including the identification of any critical research areas where the United States should be the world leader to best achieve the goals of the Program; and

(13) an analysis of the current impact of nanotechnology on the United States economy and recommendations for increasing its future impact.

(b) STUDY ON MOLECULAR SELF-ASSEMBLY.—As part of the first triennial review conducted in accordance with subsection (a), the National Research Council shall conduct a one-time study to determine the technical feasibility of molecular self-assembly for the manufacture of materials and devices at the molecular scale.

(c) STUDY ON THE RESPONSIBLE DEVELOPMENT OF NANOTECHNOLOGY.—As part of the first triennial review conducted in accordance with subsection (a), the National Research Council shall conduct a one-time study to assess the need for standards, guidelines, or strategies for ensuring the responsible development of nanotechnolgy, including, but not limited to—

(1) self-replicating nanoscale machines or devices;

(2) the release of such machines in natural environments;

(3) encryption;

(4) the development of defensive technologies;

(5) the use of nanotechnology in the enhancement of human intelligence; and

(6) the use of nanotechnology in developing artificial intelligence.

(d) EVALUATION TO BE TRANSMITTED TO CONGRESS.—The Director of the National Nanotechnology Coordination Office shall transmit the results of any evaluation for which it made arrangements under subsection (a) to the Advisory Panel, the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science upon receipt. The first such evaluation shall be transmitted no later than June 10, 2005, with subsequent evaluations transmitted to the Committees every 3 years thereafter.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL SCIENCE FOUNDATION.—There are authorized to be appropriated to the Director of the National Science Foundation to carry out the Director's responsibilities under this Act—

(1) $385,000,000 for fiscal year 2005;

(2) $424,000,000 for fiscal year 2006;

(3) $449,000,000 for fiscal year 2007; and

(4) $476,000,000 for fiscal year 2008.

(b) DEPARTMENT OF ENERGY.—There are authorized to be appropriated to the Secretary of Energy to carry out the Secretary's responsibilities under this Act—

(1) $317,000,000 for fiscal year 2005;

(2) $347,000,000 for fiscal year 2006;

(3) $380,000,000 for fiscal year 2007; and

(4) $415,000,000 for fiscal year 2008.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration to carry out the Administrator's responsibilities under this Act—

(1) $34,100,000 for fiscal year 2005;

(2) $37,500,000 for fiscal year 2006;

(3) $40,000,000 for fiscal year 2007; and

(4) $42,300,000 for fiscal year 2008.

(d) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out the Director's responsibilities under this Act—

(1) $68,200,000 for fiscal year 2005;

(2) $75,000,000 for fiscal year 2006;

(3) $80,000,000 for fiscal year 2007; and

(4) $84,000,000 for fiscal year 2008.

(e) ENVIRONMENTAL PROTECTION AGENCY.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the Administrator's responsibilities under this Act—

(1) $5,500,000 for fiscal year 2005;

(2) $6,050,000 for fiscal year 2006;

(3) $6,413,000 for fiscal year 2007; and

(4) $6,800,000 for fiscal year 2008.

SEC. 7. DEPARTMENT OF COMMERCE PROGRAMS.

(a) NIST PROGRAMS.—The Director of the National Institute of Standards and Technology shall—

(1) as part of the Program activities under section 2(b)(7), establish a program to conduct basic research on issues related to the development and manufacture of nanotechnology, including metrology; reliability and quality assurance; processes control; and manufacturing best practices; and

(2) utilize the Manufacturing Extension Partnership program to the extent possible to ensure that the research conducted under paragraph (1) reaches small- and medium-sized manufacturing companies.

(b) CLEARINGHOUSE.—The Secretary of Commerce or his designee, in consultation with the National Nanotechnology Coordination Office and, to the extent possible, utilizing resources at the National Technical Information Service, shall establish a clearinghouse of information related to commercialization of nanotechnology research, including information relating to activities by regional, State, and local commercial nanotechnology initiatives; transition of research, technologies, and concepts from Federal nanotechnology research and development programs into commercial and military products; best practices by government, universities and private sector laboratories transitioning technology to commercial use; examples of ways to overcome barriers and challenges to technology deployment; and use of manufacturing infrastructure and workforce.

SEC. 8. DEPARTMENT OF ENERGY PROGRAMS.

(a) RESEARCH CONSORTIA.—

(1) DEPARTMENT OF ENERGY PROGRAM.—The Secretary of Energy shall establish a program to support, on a merit-reviewed and competitive basis, consortia to conduct interdisciplinary nanotechnology research and development designed to integrate newly developed nanotechnology and microfluidic tools with systems biology and molecular imaging.

(2) AUTHORIZATION OF APPROPRIATIONS.—Of the sums authorized for the Department of Energy under section 6(b), $25,000,000 shall be used for each fiscal year 2005 through 2008 to carry out this section. Of these amounts, not less than $10,000,000 shall be provided to at least 1 consortium for each fiscal year.

(b) RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—The Secretary of Energy shall carry out projects to develop, plan, construct, acquire, operate, or support special equipment, instrumentation, or facilities for investigators conducting research and development in nanotechnology.

SEC. 9. ADDITIONAL CENTERS.

(a) AMERICAN NANOTECHNOLOGY PREPAREDNESS CENTER.—The Program shall provide for the establishment, on a merit-reviewed and competitive basis, of an American Nanotechnology Preparedness Center which shall—

(1) conduct, coordinate, collect, and disseminate studies on the societal, ethical, environmental, educational, legal, and workforce implications of nanotechnology; and

(2) identify anticipated issues related to the responsible research, development, and application of nanotechnology, as well as provide recommendations for preventing or addressing such issues.

(b) CENTER FOR NANOMATERIALS MANUFACTURING.—The Program shall provide for the establishment, on a merit reviewed and competitive basis, of a center to—

(1) encourage, conduct, coordinate, commission, collect, and disseminate research on new manufacturing technologies for materials, devices, and systems with new combinations of characteristics, such as, but not limited to, strength, toughness, density, conductivity, flame resistance, and membrane separation characteristics; and

(2) develop mechanisms to transfer such manufacturing technologies to United States industries.

(c) REPORTS.—The Council, through the Director of the National Nanotechnology Coordination Office, shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science—

(1) within 6 months after the date of enactment of this Act, a report identifying which agency shall be the lead agency and which other agencies, if any, will be responsible for establishing the Centers described in this section; and

(2) within 18 months after the date of enactment of this Act, a report describing how the Centers described in this section have been established.

SEC. 10. DEFINITIONS.

In this Act:

(1) ADVISORY PANEL.—The term ''Advisory Panel'' means the President's National Nanotechnology Advisory Panel established or designated under section 4.

(2) NANOTECHNOLOGY.—The term ''nanotechnology'' means the science and technology that will enable one to understand, measure, manipulate, and manufacture at the atomic, molecular, and supramolecular levels, aimed at creating materials, devices, and systems with fundamentally new molecular organization, properties, and functions.

(3) PROGRAM.—The term ''Program'' means the National Nanotechnology Program established under section 2.

(4) COUNCIL.—The term ''Council'' means the National Science and Technology Council or an appropriate subgroup designated by the Council under section 2(c).

(5) ADVANCED TECHNOLOGY USER FACILITY.—The term ''advanced technology user facility'' means a nanotechnology research and development facility supported, in whole or in part, by Federal funds that is open to all United States researchers on a competitive, merit-reviewed basis.

(6) PROGRAM COMPONENT AREA.—The term ''program component area'' means a major subject area established under section 2(c)(2) under which is grouped related individual projects and activities carried out under the Program.

AMENDING THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Mr. FRIST. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 23, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 23) to amend the Housing and Community Development Act of 1974 to authorize communities to use community development block grant funds for construction of tornado-safe shelters in manufactured parks.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider laid upon table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 23) was read the third time and passed.

MEASURES DISCHARGED—H.R. 2744, H.R. 3379, AND H.R. 3175

Mr. FRIST. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of the following post office-naming bills, and the Senate proceed to their immediate consideration, en bloc: H.R. 2744, H.R. 3379, H.R. 3175.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the bills be read the third time and passed, the motions to reconsider be laid on the table en bloc, and that any statements relating to the bills be printed in the RECORD.

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

DAVID BYBEE POST OFFICE BUILDING

The bill (H.R. 2744) to designate the facility of the United States Postal Service located at 514 17th Street in Moline, Illinois, as the ''David Bybee Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

FRANCIS X. McCLOSKEY POST OFFICE BUILDING

The bill (H.R. 3379) to designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the ''Francis X. McCloskey Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

RICHARD D. WATKINS POST OFFICE BUILDING

The bill (H.R. 3175) to designate the facility of the United States Postal Service located at 2650 Cleveland Avenue, NW in Canton, Ohio, as the ''Richard D. Watkins Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

ORDERS FOR WEDNESDAY, NOVEMBER 19, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, November 19. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business for up to 60 minutes, with the first 30 minutes under the control of the minority leader or his designee, and the second 30 minutes under the control of Senator HUTCHISON or her designee.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I may say through the Chair to the distinguished majority leader, on our side we are ready to finish the session. We understand we will have to work Saturday, Sunday, and hopefully we will finish then; otherwise, we will go Monday and Tuesday. Everyone has been told that is what we are going to do. Even though there is a little grumbling, everyone has accepted the fact that is what we are going to have to do.

I hope everyone understands the decision made by the leadership—we need to make sure everyone has a chance to be heard—but we have to have cooperation to get this very difficult session completed. We have some very important issues—the Energy bill, Medicare—and I hope everyone understands the time is limited.

As I say, we have signed on to the program, and we are willing to work until we finish the business.

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

Mr. FRIST. Mr. President, I very much appreciate the statement made by the assistant Democratic leader. What he is referring to will be ambitious in the sense we are asking both sides of the aisle to work together to address a number of pieces of legislation that are very important to this body and very important to the American people.

We have agreed we will be here over the course of this week and, if necessary, into the weekend so that we can complete the bills before us. One of the reasons we are here at this hour of the evening is that I was hopeful we could proceed with the Energy bill. For a number of reasons, we will wait and start that early in the morning after morning business.

The leaders on both sides of the aisle have been in touch over the course of the day, and both are determined to proceed in an orderly way, a collaborative way to address the issues that will be coming before us over the next several days.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow, following morning business, the Senate may begin consideration of the Energy Policy Act conference report. The official conference papers have now arrived and copies will be available to all Members. If we are unable to reach consent for a time limit on the Energy conference report, it may be necessary to file cloture during tomorrow's session.

The Senate may also take up other conference reports as they become available and nominations on the Executive Calendar during tomorrow's session. Therefore, rollcall votes should be expected tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:20 p.m., adjourned until Wednesday, November 19, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 18, 2003:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY 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

MAJ. GEN. ROBERT T. CLARK

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

MAJ. GEN. VICTOR E. RENUART, JR.

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. RICHARD V. REYNOLDS

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

MAJ. GEN. CHARLES L. JOHNSON II

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

MAJ. GEN. GARRY R. TREXLER

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY 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

MAJ. GEN. FRANKLIN L. HAGENBECK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY 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

MAJ. GEN. JOSEPH L. YAKOVAC, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY 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

MAJ. GEN. DAVID W. BARNO

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. TONY L. CORWIN
BRIG. GEN. JON A. GALLINETTI
BRIG. GEN. THOMAS L. MOORE, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. JOHN R. ALLEN
COL. THOMAS L. CONANT
COL. JOSEPH V. MEDINA
COL. ROBERT E. SCHMIDLE, JR.
COL. THOMAS D. WALDHAUSER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JAMES L. WILLIAMS

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) MICHAEL K. LOOSE
REAR ADM. (LH) ROBERT L. PHILLIPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) ROBERT RYLAND PERCY III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. HENRY B. TOMLIN III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. GARY A. ENGLE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MARK A. HUGEL

AIR FORCE NOMINATIONS BEGINNING MARTIN ALEXIS AND ENDING JEROME E. WIZDA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

AIR FORCE NOMINATION OF MICHAEL A. MANSUETO.

AIR FORCE NOMINATION OF RONALD C. DANIELSON.

AIR FORCE NOMINATION OF JEFFERSON L. SEVERS.

AIR FORCE NOMINATION OF LESA M. WAGNER.

AIR FORCE NOMINATION OF FRANCIS D. POMBAR.

AIR FORCE NOMINATION OF ALAN T. PARMATER.

ARMY NOMINATION OF MICHAEL P. VINLOVE.

ARMY NOMINATIONS BEGINNING DONALD A. BLACK AND ENDING DEBRA S. LONG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 14, 2003.

ARMY NOMINATIONS BEGINNING DOUGLAS B ASHBY AND ENDING TERRY C WASHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

ARMY NOMINATIONS BEGINNING CURTIS J ALITZ AND ENDING MARSHALL F WILLIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

ARMY NOMINATIONS BEGINNING DEBRA E BURR AND ENDING JANICE B YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

ARMY NOMINATIONS BEGINNING LIONEL BAKER AND ENDING WARREN S WONG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

FOREIGN SERVICE NOMINATIONS BEGINNING ELENA L. BRINEMAN AND ENDING STEPHEN J. HADLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 3, 2003.

FOREIGN SERVICE NOMINATIONS BEGINNING KENNETH C. BRILL AND ENDING STEVEN C. TAYLOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 3, 2003.

NAVY NOMINATIONS BEGINNING JOHN A ADCOCK, JR. AND ENDING JOSEPH ZULIANI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

NAVY NOMINATIONS BEGINNING MICHAEL C BECKETTE AND ENDING ROBERT S THOMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

NAVY NOMINATIONS BEGINNING JAMES C TAYLOR AND ENDING JEFFERY S YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

NAVY NOMINATION OF JEFFREY D. DICKSON.