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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, ADM Barry C. Black, offered the following prayer:

Lord God almighty, You have made all the people of this Earth for Your glory. Yet, too often we choose our own destructive paths. Deliver our own world from hatred, cruelty, and revenge. Save us from violence, discord, confusion, and sin. Guide and bless our Senators that their labors will please You and be a blessing to the nations of the Earth. May we be a people at peace among ourselves and determined to be Your instruments of reconciliation. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS 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 ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Kentucky is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, this morning the Senate will resume consideration of the motion to proceed to S. 11, the Patients First Act. Between now and 11:30, the time will be equally divided between the majority leader or his designee, and the Democratic leader or his designee.

At 11:30, there will be two consecutive rollcall votes. The first vote will be on the motion to invoke cloture on the motion to proceed to the Patients First Act of 2003. Immediately following that vote, the Senate will proceed to executive session and vote on the nomination of Victor Wolski to be a judge on the U.S. Federal Claims Court.

Following those two votes, at 11:30, the Senate will begin consideration of S. 925, the State Department reauthorization bill. Amendments are expected to be offered to the bill. However, it is our hope, and the hope of Chairman LUGAR, to complete this bill expeditiously. To accomplish this, Members who intend to offer and debate amendments should notify their respective chairman or ranking member so that the amendments can be scheduled for consideration.

Rollcall votes will occur throughout the day as the Senate considers the State Department authorization bill.

Again, it is our hope that we will be able to complete this bill early this week so we can begin the appropriations process prior to the end of this week. I encourage everyone to help make that possible.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, if I may direct a question through the Chair to the distinguished majority whip, what is the pleasure of the majority leader as to what we are going to do on Friday? Is there a determination yet as to whether we are going to have votes on Friday?

Mr. MCCONNELL. It is my understanding that the leader does expect there will be votes on Friday. We anticipate being on one of the appropriations bills.

Mr. REID. I certainly have no prior knowledge about amendments being offered on the very important State Department authorization bill. But I think it will be difficult to finish the bill by tomorrow evening. If that is what the leader wants to do, we will certainly try.

As I indicated, I don't know what amendments will be offered. We will have a better idea before we get on the bill, and we will inform Senator BIDEN and let him know what amendments there are, so the leader can have an idea as to what the week holds for us in that regard.

Mr. MCCONNELL. Mr. President, I think the plan of Senator FRIST is to get started and see how it goes and to hope that we can move that bill rapidly.

Mr. REID. Mr. President, if it would be OK, the time, as the Senator from Kentucky has indicated, is evenly divided—the Chair will announce it shortly—until about 11:10; is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. One-half hour of the time we are allotted I will yield to the Senator from New York, Mr. SCHUMER, to speak on Judge Wolski.

I have been advised by staff that 25 minutes would be adequate because he has 5 minutes prior to the vote. So I will yield 25 minutes to the Senator from New York.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

PATIENTS FIRST ACT OF 2003—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration on the motion to proceed to the consideration of S. 11. Under the previous order, the time until 11:30 a.m. will be equally divided between the majority leader and the minority leader or their designees.

Mr. MCCONNELL. Mr. President, the measure we are hoping to proceed to, the Patients First Act of 2003, seeks to

address a major national crisis that confronts us in health care. Two weeks ago, or right before the recess, the Senate and the House acted on a major new health care proposal to modernize and preserve Medicare and to add a prescription drug benefit for our seniors. Now the Senate seeks to address another part of America's health care crisis—one the House of Representatives has already dealt with—which is the question of the rising cost of medical liability premiums, forcing physicians out of certain specialties or, in the case of young physicians, choosing not to go into such high-risk specialties as obstetrics because they know they won't be able to afford the medical malpractice premiums and still perform the service for which they have been trained.

Last year, when we dealt with this issue, there were about 11 or 12 States that were in crisis. Now there are 19. There are only 6 of our 50 States that have no problem at all. All the rest are on the way to having a major national crisis.

The underlying bill that we are seeking to get permission to go to—the principal sponsor is Senator ENSIGN of Nevada, who is here to my right and has been an active and major player in the legislation—is very similar to the measure that passed the House. It is also supported by the President of the United States. So we know that if we were to go forward with a bill similar to this, it could get a Presidential signature and we would be well on our way to dealing with this enormous problem that is beginning to deny patients care all across our country.

So when the Senate has an opportunity to vote, I hope Members will vote to invoke cloture on the motion to proceed so we can go to the bill and begin to address this incredibly serious national problem.

I commend Senator ENSIGN for his leadership on this issue. His State has certainly been one of those that has had an enormous crisis and they are trying to deal with it at the State level. He can address that. But the point is that this is a national problem that needs to be dealt with by the National Government.

That is what we are seeking to do today: to get an opportunity to get on to the bill and deal with this extraordinary health care crisis that we have in the country.

I will have more to say later in the morning and particularly just prior to the vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I appreciate the words of the majority whip. I rise today to speak on behalf of the bill that I have introduced, the Patients First Act. The reason we call it the Patients First Act is because it really does put patients first.

In our health care system today, we have too many patients who are either close to being denied care or have been denied care simply because physicians cannot afford the medical liability premiums they are facing today.

My State, as the Senator from Kentucky mentioned, is one of those States that is in crisis. Our State has a level I trauma center which serves a four-State region, and last year that trauma center closed for 10 days. The closure of that trauma center was the only event in my state of Nevada that brought the people who were against reforming our medical liability system and our overall tort system and the proponents of that reform together. This crisis allowed a special session of the legislature to be called so they could try to deal with this situation. I commend our Governor and State legislators for their efforts to deal with the situation.

The problem in Nevada, as with other States that have enacted reform, is it will take 6 to 10 years, depending on the length of the appeals and the challenges to the law, before we know whether the bill will actually take effect and have the result of lowering the costs for medical liability insurance.

In the meantime, Nevada and many other States are losing doctors in droves. Nevada is the fastest growing State in the country, and we cannot afford the migration of doctors from our state to continue.

Speciality fields are the most severely affected by this crisis, and of those, obstetrics and gynocology are of the most severely affected. In southern Nevada, we have 5,000 to 6,000 new people a month moving in. This increase in our population during this time of crisis has resulted in three things happening.

One is we are losing doctors; two is new doctors are not coming to replace them; and three is, the few ob/gyns who actually are staying, when they were delivering 250 to 300 babies a year previously, they have cut that number down to 125; 125 babies from 250 to 300. One can do the math. It does not add up.

Additionally, many doctors who previously delivered babies in high-risk pregnancies no longer can deliver them because their insurance company will not cover them for that procedure. We are in a situation where some of our best doctors are not able to give the care they are are capable of giving.

I see my friend from Wyoming just arrived in the Chamber. Mr. President, I say to him, I am going to take a couple more minutes and then I will yield the floor.

This is not just a Nevada issue. As the Senator from Kentucky mentioned, 19 other States are in crisis, and all but 6 States are showing signs of heading into a crisis. In every State that is in crisis or heading into a crisis, we hear the same kind of stories from patients. It is a real problem, a problem the Senate must address. The House has already dealt with it. Now the Senate must deal with it.

This crisis is a national problem. For Medicare, Medicaid, veterans, 60 percent of all the medical bills are paid through the Congress. Because of that, it is a national issue and it requires the House of Representatives and the United States Senate to act in concert to send a bill to the President. The House has done its job. Now it is up to the Senate.

I will share one or two quick anecdotes to illustrate real people who have been touched by this issue.

During the closure of the level I trauma center in my home State of Nevada, a woman and her father, Mr. Lawson, were in Las Vegas visiting when this level I trauma center closed. The father had to be transferred to a different emergency room, and on his way there, unfortunately, this gentleman passed away.

Level I trauma centers are staffed with the most talented, specialized people in the medical profession. We have trauma centers specifically staffed by the best because they must save lives that are in jeopardy every day. That trauma center closed because the specialists could not afford the insurance, and they could not afford the liability from the exposure of potential high-risk surgeries to save lives.

The only way the legislature was able to open that trauma center again is they covered the people who worked there under the umbrella of the State.

By the way, when we talk about caps, my home state of Nevada has a cap of $50,000 total for economic, non-economic and medical. It is a total $50,000 cap, obviously much more severe than we would even think to consider in this body. In the bill before the Senate today we have a $250,000 cap on pain and suffering, but an unlimited amount on economic damages and medical expenses, and if there is gross negligence, there are punitive damages in this bill as well.

We think we have taken a balanced approach so that patients throughout this country are not denied care, such as when the trauma center in Nevada was forced to close, do not have to go through that experience again. We have to ask the fundamental questions: How many more people have to be denied care who really need it? How many more people have to die in this country before this body will take action? That is really the bottom line today. People are being denied care, and more and more people will be denied the care they really need. That is why this institution needs to act.

Mr. President, I yield the floor so the Senator from Wyoming may speak.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the Senator from Nevada. I always appreciate his comments. He has one of the fastest growing States in the Nation. I come from the most sparsely populated State in the Nation. We have some very common problems.

In the last couple of days, we have heard a lot of discussion about insurance companies. We have heard that medical liability insurers are the source of the problem; that they are gouging doctors to make up for investment losses.

Well, the Nasdaq index yesterday closed at its highest level since April 2002. The Nasdaq is up more than 30 percent since the beginning of the year. For that matter, the Dow Jones Industrial Average is up more than 10 percent in 2003. Under the logic we have heard this week, the stock market rebound ought to be leading to a sharp reduction in medical liability premiums. So why aren't we seeing any relief?

We are not seeing any relief because insurance companies are paying out more in losses than they are receiving in premiums. It is that simple. It does not take an accountant to figure that out. For every premium dollar collected in 2001, medical liability insurers experienced $1.53 in losses. Ten years earlier, for every premium dollar collected, insurers lost $1.03.

Regardless of investment gains or losses, the fact is that payments for medical litigation judgments and settlements are rising much faster than the incoming premium payments, even though premiums are escalating dramatically. Insurance companies cannot make up the gap between the $1 they take in and the $1.53 they pay out without raising premiums. That is why we are not seeing reductions in medical liability premiums, despite the stock market's advance in 2003.

It all comes back to our legal system. It is simply out of control. People who are truly injured by health care errors ought to receive fair compensation. The problem is that our medical justice system is completely out of whack. Doctors and hospitals live in constant fear of litigation. They order unnecessary tests out of legal fear.

Doctors look at their patients as potential lawsuits, not people in need of their help, because of this legal fear. They are forced to move their practices to States that have reformed their legal systems. All of this because of legal fear.

Some of my colleagues may have read a book that came out several years ago, in 1995. The book was called ''The Death of Common Sense.'' The book was written by Philip Howard, a lawyer by training. His premise was that American law and regulation are stifling human judgment and good sense.

Well, Mr. Howard just published a new book, and I encourage my colleagues to read it. It is called ''The Collapse of the Common Good.'' In the book, he describes how law and regulation in America create a warped sense of individual rights. In America today, people use the concept of individual rights to bully other members of society, using the threat of legal action as a weapon.

Some of what Mr. Howard has written is pertinent to this debate. For instance, some of my colleagues believe that this legislation would limit a patient's right to sue a doctor. We all believe that patients who are truly injured deserve fair compensation. The problem is that some personal injury lawyers are taking advantage of this belief to bring all sorts of claims against doctors, whether the doctors are at fault or not.

Let me share a passage from Mr. Howard's book. He writes on pages 22 and 23:

> Like ancient Mayans accepting human sacrifice or Catholics in the Middle Ages buying indulgences, Americans today accept that being sued is the price of freedom, and that diving for cover is the natural response to reasonable daily choices. Our faith in individual rights keeps us from pausing even to question this conception of justice. But should individual rights include the right to go to court over a sandbox disagreement involving 3-year-olds, or to milk the system whenever there is a freak accident, or to scare towns and school systems out of seesaws and peanut butter? The idea of individual rights derives its moral force from the rhetoric of liberty. But is this what our founders had in mind when they organized a society around the freedom of each individual?
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> Actually, no. Our founding fathers would be shocked. There is no ''right'' to bring claims for whatever you want against someone else.
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> Suing is a use of state power. A lawsuit seeks to use government's compulsory powers to coerce someone else to do something. Asserting individual rights sounds benign, like praying in the church or synagogue of your choice. Sticking a legal gun in someone's ribs, however, is not a feature of what our founders intended as an individual right. The point of freedom is almost exactly the opposite: We can live our lives without being cowed by use of legal power. The individual rights our founders gave us were defensive, to protect our liberty. Liberty, we somehow forgot, does not include taking away someone else's liberty. . . .
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> Courts are not supposed to be commercial establishments where, for the price of a lawyer, anyone can buy a chance on a raffle. Courts supposedly represent the wisdom of law, overseeing when those powers can be used against others in a free society. There's no right to sue except as the state permits.
>
> I can practically feel your confusion. How else can we organize justice? People obviously have the ability to go to court. But by what rules and standards? Our modern consciousness is so focused on individual rights we can't conceive of another way to ensure fairness. But if lawsuits are recognized as an exercise of state power, perhaps the state should make conscious judgments of who can sue for what. That's what legal rules and interpretations are for.

That is what this debate is about. That is what this legislation intends to do—make conscious judgments about who can sue and for what, and the rules and limits under which medical lawsuits can go forward.

Is this bill a perfect bill? No. I have yet to see a perfect bill, and I am in my seventh year in the Senate, following 10 years in the Wyoming Legislature. But we ought to vote to begin this debate and move on to the consideration of this bill, and the amendments to the bill, so that we can address this medical liability crisis before it further compromises the liberties of the people in Wyoming and the other States, and especially their access to medical care.

We are debating whether to proceed to debate, whether to proceed to begin the amendments which can even be whole substitutes to this bill. So if my colleagues have a better idea, a way to solve this, they should vote to proceed, then bring their amendments.

Our Declaration of Independence speaks to our unalienable rights, as granted to us by our Creator, and that among these rights are life, liberty, and the pursuit of happiness.

Well, it is pretty hard for an expectant mother in Wyoming to pursue her happiness when she has to pursue her doctor for one more well-baby check-up before he closes his practice and leaves for a State where insurance premiums are lower.

There is another passage in Mr. Howard's book that is pertinent to our discussion about limits on pain-and-suffering awards. The statistics show that insurance premiums are lower in States with such limits, but I have heard Members on the other side of the aisle argue that the limit in this bill is too low, that it is unfair to someone who is severely injured, despite the fact that the bill does not limit in any way that person's right to recover every cent of the economic damages that result from that injury.

Well, if the limit on pain-and-suffering awards in this bill is too low, then what is the right amount?

I quote another passage from Mr. Howard's book, and I hope everybody will read at least the first chapter of this book.

> A great thing about bringing lawsuits in modern America is that it is so easy to threaten the adversary's entire livelihood. One stroke of the finger on the lawyer's word processor, and damages go from $100,000 to $1,000,000. Three more key strokes, and we're suing for a billion dollars. This is fun.
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> What kind of justice system is it that allows someone to make up an amount of money to demand? Is that a fact to be ''found'' by a jury? It doesn't even qualify as a value judgment, which at least is a conclusion based on facts. Damages claimed today are completely arbitrary. Just stick your finger in the air and threaten someone with any number that comes to mind.
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> Judges treat damage claims almost as if they are property, and only with greatest reluctance intercede. In 1987, five-year-old Gregory Strothkamp climbed up several shelves to the top of the linen closet, got an unopened box of Q-Tips, and, while trying to use them, punctured his eardrum. His parents sued the maker of Q-Tips for, among other things, $20 million in punitive damages. Whatever the merits of the argument that Q-Tips should come in childproof packaging (which would raise everyone's cost), most people probably agree that making Q-Tips is not an evil act.
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> When the jury awarded young Gregory $20 million in punitive damages, the judge did what was obvious from the beginning and overturned the award. The claim ended sensibly, but is this how justice should work? Sweating through trial and verdict to get to obvious justice, while the judge is sitting there the whole time, doesn't exactly instill confidence in the system.
>
> Do judges enjoy watching the Q-Tip companies, or a Little League coach, or a doctor squirm at the end of a multimillion-dollar hook?

Lying dormant along the side of society is another important legal principle: that a person injured should be ''made whole'' by damages. Traditionally, this meant out-of-pocket losses, like lost wages or medical bills. In an unusual case, like a homemaker with no wages, claims were permitted in categories not actually calculable, like ''pain and suffering.'' In cases of genuine evil, punitive damages were possible.

Today, the exceptions have engulfed the rule, with all kinds of side effects. Juries are regularly asked ''to assume the baffling task of trying to place a monetary value on pain and suffering,'' Dean Bok observed, ''although the predictable result [is] to encourage a rise in litigation and the growth of the most unsavory and deceptive practices.''

Judges might concede the principle but can't imagine how to apply it. They need some objective legal post to hang on to. If $1.35 billion is too much, what is the right amount? The ''exercise of judicial power is not legitimate,'' as one scholar put it, ''if it is based on a judge's personal preference rather than law.'' So what do the judges do? They abdicate. Judges look up at the allegorical figure of Justice and interpret her blindfold as impotence.

But Justice is also holding balanced scales. How does Justice achieve balance but through the values and wisdom of judges? Proportion is critical to justice. Equals should be treated alike, Aristotle believed, and unequals proportionally to their relative differences: ''the unjust is what violates the proportion.'' These distinctions, Aristotle observed, can only be made with human wisdom.

Dead people can be so smart. ''[T]o speak somewhat paradoxically,'' Cardozo observed, there are times ''when nothing less than a subjective measure will satisfy an objective standard.'' Justice Potter Stewart had it right after all. Judges have to know it when they see it. One billion dollars for a wrongful dismissal case is absurd. Everyone knows it. The case should be dismissed unless the plaintiff comes back with some amount he can plausibly justify.

I wonder if judges ever ask themselves why it is that damage claims have escalated to a level where they are like a parody of a dysfunctional system of justice. The answer couldn't be more obvious. Judges sit on their hands and tolerate claims that make lotteries seem like small change. The reason people bring huge claims is not hard to divine: It's a form of extortion. Why else sue for such ridiculous amounts? Being sued for, say, $5 million for a regular accident may not cause you to fold your hand, but the possibility of ruin never strays far from your consciousness. Most million-dollar claims end up settling for thousands or less. But not all. All that it takes is for a jury to get mad. . . .

The point I am making is that there is an imbalance. I think that everybody recognizes there is an imbalance. We want to have a just system. What we need to do is approve this cloture petition, end the debate of whether to proceed to the debate, and bring in substitute bills. And I have heard of some pretty good ones floating around. We can debate the issue and come up with something that will make doctors still accessible in States such as Nevada and Wyoming and the other ones that we have had on the chart of states in crisis. There are only about five that are not in crisis. Then there are varying degrees of crisis among the rest of them.

The problem we are facing today is that multimillion-dollar awards for pain and suffering are contributing to dramatic increases for insurance premiums for doctors. When this forces doctors to leave their practices, it hurts innocent patients who lose their access to medical care. Do we not have an obligation to say enough is enough, and set some limits on lawsuits?

As Mr. Howard points out in his book, if lawsuits are an exercise of State power, perhaps the State should make conscious judgments of who can sue for what.

When I spoke on this bill yesterday, I said the current medical liability crisis and the shortcomings of our medical litigation system make it clear it is time for a major change. I also said that regardless of how we vote on this legislation, we ought to start working toward replacing the current medical tort litigation scheme with a more reliable and predictable and faster system of medical justice.

I have heard Members on the other side of the aisle say they want to work with Republicans to find a better way to solve this problem, to find reasonable good-faith alternatives to this legislation. If we vote not to proceed on this bill, I hope this process will begin sooner rather than later. I hope we proceed so Members can bring their ideas out and suggest amendments; then we can vote up or down. The people of Wyoming and other States in crisis cannot afford to lose any more doctors. We cannot afford to lose any more time.

If we do not proceed on this bill today, I pledge to continue working to find solutions to this million-dollar liability crisis. I hope Members on both sides of the aisle will also take this pledge to keep working on this.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from the State of New York.

NOMINATION OF VICTOR WOLSKI

Mr. SCHUMER. Mr. President, I will talk today about the nomination of Victor Wolski to the Court of Federal Claims. This nomination admittedly has not gotten much attention from our colleagues because the Court of Federal Claims does not handle the breadth or the number of cases that the courts of appeals do or even Federal district courts.

However, I remind my colleagues that in one area these courts are extremely important—they are important in many areas, but in one area where we have our usual ideological discussions and battles, the area of the environment. The Court of Federal Claims is the place where claims of takings reside. Takings have been the way many have opposed the advances we have made in the environment. They make their arguments this is a government taking from you your right to use your property as you see fit.

When the Government says you cannot pollute the water on the land you own or you cannot pollute the air on the land above which you own, some have come up with the theory that the Government is taking something from you. It is sort of denying the theory of compact that we all live together and we all have to be responsible for our land and our water.

I argue that the vast majority of Americans do not agree with this argument. However, there is a small group of people who tend to be propertied, tend to be quite well off in society, who are very much for this argument.

The nominee to the Court of Federal Claims, Victor Wolski, if we nominate him, if we approve him, we are approving somebody who has led the charge in this area—not somebody who sees some merit to the taking argument and sees the other side but somebody who is a committed ideologue, not somebody who would have the balance we need on the courts.

If anyone does not believe me, I take Mr. Wolski's own words to the National Journal:

> Every single job that I have taken since college has been ideologically oriented trying to further my principles.

He then goes on to describe his principles as ''a libertarian belief in property rights and limited government.''

This man is a self-described ideologue. I thought we had been making some progress in this body, that while some would propose more conservative nominees and some would propose more liberal nominees, that it was a bad idea to put ideologues on the bench, ideologues of the left or the right.

Mr. Wolski is clearly an ideologue and does not belong on this sensitive court. For that reason, he is opposed by 13 national environmental groups. When he was counsel for the Pacific Legal Foundation, Mr. Wolski consistently furthered his ideology through sweeping arguments that would have dramatically undermined the Nation's environmental laws.

My guess is he preferred an America of the 1890s or the 1930s where our air was much dirtier, our water was much filthier. Whether you are a Democrat or Republican, if you believe at all in preserving the environment, it would seem to me it would make a good deal of sense not to further this nomination. We can find people who might be more consistent with the President's views, with many views on the other side in terms of not extending environmental laws or making sure that the excesses of environmental laws are limited. Mr. Wolski is just not that. He is so committed to this ideological view that the Government has virtually no right to tell you you cannot pollute the air or the water, that if he had his way, we would turn the clock back dramatically in the environmental area. As a result, as I mentioned, 13 national environmental groups oppose his nomination.

In addition, a broad coalition of groups, civil rights, women's rights,

human rights organizations, including the Leadership Conference on Civil Rights, the National Fair Housing Alliance, and the National Women's Law Center have expressed serious concerns with Wolski's ''extreme views on governmental power and his troubling record in race and sex discrimination cases.''

Admittedly, this court does not handle race and sex discrimination cases, but it does handle the takings cases that relate to our environment.

In addition, I argue to my colleagues, Mr. Wolski does not really have the judicial temperament to be a Federal judge. He argued a case where there were ponds that were providing habitat for migratory birds. I know from my own experience that some would think every piece of water, every pond and every lake is a wetlands and cannot be touched, and sometimes the advocates, I would be the first to say, go overboard. However, in this case, Mr. Wolski called ponds ''puddles,'' and he belittled the possibility that there might be any interest in protecting migratory birds. ''Jurisdiction over puddles was justified by the Ninth Circuit on the basis that birds might frolic in these puddles.''

He wrote:

Will one fewer puddle for the birds to bathe in have some impact on the market for these birds?

In the argument he is making—I don't know, the facts of the case might be right—the language does not show the temperament, a fair and balanced temperament, that we seek in nominations to the bench, whether they be Democrat or Republican.

In a letter to the San Francisco Chronicle, Wolski derided what he called ''a rogue Congress'' and referred to the Members of Congress as ''bums.'' Again, many of our constituents have hard words about Congress Members, but I don't think a lawyer, a trained advocate, ought to be using that kind of language. Again, it shows the kind of temperament Mr. Wolski has.

On the merits of his views, he is way over to the extreme. On his judicial temperament he has used incendiary language that is inappropriate for a lawyer or a judge. Mr. Wolski should not be put on the bench.

I make one other argument in this regard. The Federal Court of Claims has some vacancies. It has 16 slots. It now has 13 senior judges in addition to the 11 regular judges. This court does not have much of a caseload. The average number of cases the United States District Court judge handles is 355 cases; the number of cases a current judge of the Court of Federal Claims handles is 24. If we add the new nominees, each will handle 19 cases.

Let's say you don't agree with CHUCK SCHUMER on the environment. Let's say you even agree with Victor Wolski, but you are a fiscal conservative. Why are we adding more judges to a bench that does not need any help?

The Washington Post editorial—and, as you know, the Washington Post on the issue of judges has not agreed with many of us on this side—called the CFC:

. . . a court of extravagance and an unnecessary waste of judicial resources that should be abolished.

Each of these judges costs a million dollars. I would say to my colleagues, those on the other side of the aisle did not allow nominees to the Court of Federal Claims when President Clinton was in office because, they said, the caseload was too low. Today the caseload is even lower, and there is a rush to nominate. This should not be dispositive.

If Wolski were a good man, if the caseload were growing, I would support him no matter what was done between 1995 and 2000. But I have to tell my colleagues on the other side, it is extremely galling to us that the very arguments that have been used in the past now seem irrelevant, now that there is a new President making different appointments. If the Court of Federal Claims should not have had appointees under the Clinton administration and the Republican-controlled Senate did not allow any because the caseload was too low—24—why are we now nominating 4 and bringing the caseload down to 19? It is just not right. It is not fair. There ought to be some consistency to the argument. There is not. There absolutely is not.

So for these grounds, I urge Mr. Wolski's defeat. No. 1, he is a good man—he may be a good man, I don't know him personally, but when I said ''a good man'' before, I did not mean in terms of his views for this court. He is an extremist. By his own words, he is an ideologue. He does not believe in the progress we have made on the environment.

If the President wishes, as our great process unfolds, to nominate somebody who would cut back a little bit on the environmental laws, or not make decisions that move them forward, that is a fair and legitimate argument. To nominate an ideologue—a self-admitted ideologue who has made it his career to say that anytime the Clean Water Act or Clean Air Act has effect, it often means it is a taking—is really not what the American people want. My guess is maybe half of the people on this side of the aisle, on the Republican side of the aisle, do not agree with these views at all—in terms of their voting record.

His temperament is poor. He uses inflammatory and derogatory language. That makes sense, in a certain sense—that when you nominate ideologues, they are not dispassionate. They are not going to interpret the law, which is what the Founding Fathers wanted; they are going to make law. I have rejected nominees from the left in my own judicial panel because they are ideologues, too, and they want to make law. We want judges to interpret the law. Those far right and those far left tend to want to make law. On temperament and ideological grounds, he is not the right man for the job.

One other argument to boot. Even if you think he is the right person for the job—and I argue, I plead with you to think otherwise—this court has no caseload. This court could handle many more cases without an additional new judge. This is a total boondoggle. This is a waste of the taxpayers' money. If it was right that this court did not have the caseload under the Clinton administration so we would fill the vacancies, with the caseload even lower today, why are we doing that?

I respectfully urge my colleagues to vote no on Victor Wolski.

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

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. SCHUMER. I yield the remainder of my time to my colleague, the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time is remaining for each side for debate before the vote?

The PRESIDING OFFICER. There remain 34 minutes on the Democratic side; 19 minutes remain on the majority side. The order indicates the Democratic leader will be recognized at 11:10.

Mr. SCHUMER. Mr. President, before my colleague speaks, I didn't realize when I yielded all the time, there was at least one other of my colleagues who wanted to speak on Mr. Wolski. Could we, if he should come, just leave 5 minutes to continue the debate? I just reserve 5 minutes of the time to discuss the Wolski nomination, and I will yield the remainder—whatever is left after reserving those 5 minutes—to my colleague who I know wants to speak on both issues.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I hope I understand what just happened. I have 29 minutes remaining? Is that mistaken? Five minutes will be given to some Democrat to speak on the Wolski nomination, and then the remaining 13 minutes, is that correct, are on the Republican side, majority side?

The PRESIDING OFFICER. There are 19 minutes remaining on the Republican side.

Mr. DURBIN. I think I have it, or at least close to it.

Thank you, Mr. President, for your cooperation and I thank my colleague from New York for yielding this time.

In the last 2 days we have been engaged in a debate on the floor which affects every American family and business, and the question is, What are we going to do about the dramatic increase in the cost of medical malpractice insurance that we see among some specialties in some parts of the country? It doesn't affect every State. It doesn't affect every doctor. But those doctors who are hardest hit, I believe—and I think everyone here shares that belief—need relief. They need some help.

What do we have offered to us today? S. 11. This is the bill brought to us by

the Senator from Nevada, Mr. ENSIGN, and Senator MCCONNELL and a number of other Republican Senators. This suggests that the best way to limit the medical malpractice premiums being charged to doctors is to limit the amount of recovery that a person who has been a victim of medical malpractice can receive. It is a decision which says we will no longer trust a jury of 12 people from your community, your city, and your State to decide what is fair compensation for your injury caused by another person. That decision will be made by a jury of 100 Senators, who will decide today, with S. 11, that regardless of what has happened to you or your child, regardless of the severity of the injury, regardless of how many years you are going to go through constant pain or suffering, we will decide today, in the Senate, that if your State has not come up with another number, the maximum amount you can receive is $250,000 for pain and suffering.

Some may say that is a pretty substantial sum of money. I have heard that said on the floor here. How can the critics of this bill be coming to you and saying $250,000 is not that much money?

I concede, if you bought a lottery ticket today and were paid $250,000 tomorrow, you would be a happy person. But if you had a medical injury today which incapacitated you for the rest of your life, which left you in a wheelchair, quadriplegic for the rest of your life, which left you in a state dependent on others for the rest of your life, which left you permanently scarred and disfigured for the rest of your life, and you were told that your compensation was $250,000, I think it would put it in a much different perspective.

I think that is what is missing in this debate. I cannot get over how Senators come to this floor and dismiss all of these victims of medical malpractice and say, basically: It is a shame, but they just don't get it. We have a bigger problem here. We have a malpractice insurance problem.

I have listened to the debate. I have listened to those who suggest that this bill, S. 11, is the answer to the problem. I say it isn't. The problem is national. The problem is serious. The problem will not be answered by this legislation.

There is a belief that if you limit the amount that a victim can recover malpractice insurance premiums will go down. Let me tell you that facts don't bear that out.

Take a look at these States. Some of them have State laws that cap liability. Others don't. Of the States without caps where a victim of malpractice can receive whatever a jury thinks is fair in the period 1991–2002, four of those—Arizona, New York, Georgia, and Washington—saw modest increases in malpractice insurance premiums. Here are four States with caps on what a victim can receive. The malpractice insurance premiums have shot up dramatically. There is no direct link between limiting a victim's recovery and the malpractice insurance premiums that are charged. Yesterday, Senator ENSIGN of Nevada, I think in a very candid moment, conceded that fact. He brought out a chart. He said you can't compare States with caps that have only been in place for a short time. In the words of Senator ENSIGN, as the CONGRESSIONAL RECORD reflects, it will take 8, 10, 12, or maybe 15 years before these caps on victims in terms of what they can recover for their serious injuries really do have a measurable impact on malpractice insurance premiums.

I would say to the doctors in Illinois and in Nevada and in any State in the Union, is this a reasonable answer to today's malpractice insurance crisis to suggest that limiting a victim's recovery will ultimately reduce malpractice insurance premiums 8, 10, 12, or 15 years from now? Trust me. In some of these specialties, OB/GYN and neurosurgery, these doctors can't wait for that period of time. Sadly, even if you bought the premise of this bill that limiting a victim's recovery will help a doctor's malpractice premiums, the sponsor of the bill came to the floor yesterday and conceded that it won't happen for 8 to 15 years.

Where does that leave us? It leaves us in a situation where we have a bill that is fundamentally unfair to the victims of medical malpractice premiums.

I listened to the rhetoric on the other side. I have been a practicing attorney, a trial lawyer, both a defense attorney and a plaintiff's attorney. I guess I understand that my profession has been the butt of a lot of jokes and a lot of derision. I have heard Members come to the floor and talk about those greedy lawyers. I will have to tell you that there are an awful lot of men and women practicing law across the United States who I think are doing a service to their clients and to America. They have people come into their law offices who are seriously hurt or who have lost a loved one and who have no money to their name and are looking for justice. They want an opportunity to go to court. They can't pay for it. They can't pay for an attorney on an hourly basis and be charged $10,000, $20,000, $30,000, or $40,000 for their day in court. Some of them can't even pay the court costs or the filing fees or the necessary expenses for a deposition asking questions preparing for a lawsuit.

Lawyers who represent these people say: I will take it on a contingent basis. If you succeed, if you win, I will be paid. If you do not succeed, if you lose, I will lose with you. That will be the gamble we will take together. We believe we have a good lawsuit. Let us go forward. Some of these lawyers say on a personal basis this is what my recovery will be.

I don't think there is anything unfair or insidious about this any more than it is unfair or insidious that those who are defending the person accused of wrongdoing are generally represented by insurance company lawyers who pay unlimited amounts of money for the defense of a lawsuit. That is just the nature of our judicial system.

On this floor the people who take contingency fee cases are referred to as greedy and selfish, exploiting the plaintiff, exploiting the claimant, and exploiting the victims. I am sure it has happened. I am sure it will continue to happen—I hope in as few cases as possible.

There is nothing unfair or unjust about a contingency fee system. In fact, it gives people an opening in the court they would never be able to afford. I have seen it. I represented people under those circumstances. I have run that risk. Sometimes I didn't succeed for the client or myself. Sometimes I did. That is the nature of the system.

Then a Senator came to the floor yesterday. He is a friend of mine. I respect him. But he used a term which troubles me greatly. He said he wants to end this ''jackpot justice.'' That was his phrase—''jackpot justice.'' I guess the idea is that if someone goes into a courtroom with a flimsy case and ends up with millions of dollars, hit the jackpot. I guess that can happen, too. Maybe it has.

But I want to talk to you a little bit about ''jackpot justice'' in the world of medical malpractice. I would like to point, as exhibit No. 1, to Alan Cronin, a 42-year-old man from the State of California. Alan Cronin is a man who has three children. He went in for a simple surgery of a hernia repair. After the surgery, two doctors failed to diagnose an acute infection. They treated him as if he had the flu. But he had a very serious infection instead. He became septic and suffered toxic shock. Once the doctors realized that, and they had to reopen the surgery site where they repaired the hernia. They found a horrendous infection underway. They told his family that he had a 98-percent chance of dying as a result of this infection. Gangrene had set in. As a consequence of a simple hernia operation and the malpractice that occurred afterwards, this gangrene claimed all four of Alan Cronin's limbs—both of his legs, both of his arms.

He used to be a customer service representative for a medical equipment manufacturer and workers compensation paid for all of his medical expenses, including some of his future expenses. He also had a private disability policy that he used to help keep his family together, offsetting future damages.

The reason this case is important is I guess there are some in the Chamber who would say if Alan Cronin goes to a courtroom and asks the jury for a verdict against the doctor who made the mistake which led to his infection, which led to gangrene and which led to this man losing both arms and both legs and asks for a verdict against that

negligent doctor and he is given several million dollars to try to keep his family and life together for the rest of his natural life, in the words of some of my colleagues, Alan Cronin would ''hit the jackpot.''

What a jackpot—several million dollars for both arms and both legs? How many volunteers would sign up for that jackpot? How many people want to buy a ticket on that jackpot lottery? None of us would. None of us would ever trade places with what this man has gone through and will go through every minute of every hour of every day of every week of every month and every year for the rest of his life. This is a jackpot?

You should have been in the room yesterday when Senator GRAHAM and I met four victims of medical malpractice who came in to see us.

Colin Gouley, a young man from Nebraska, came to us. As a result of medical malpractice, when he was born he had serious problems and disabilities and is going to be confined to a wheelchair. He must sleep at night with a cast. He has a limited ability to respond and learn and speak. He won't go through the ordinary human events of experiences that we take for granted.

He has a twin brother. This is a picture of Colin and his twin brother Conner. You can see Colin on the left and his twin brother, who is healthy, happy, and an active young man. That will be the fate and future for Colin.

They took the case to a jury in Nebraska and said for the rest of his life and with all of the pain and suffering that he will endure, what is it worth? That jury said: We calculate it to be about $5.6 million. But because of Nebraska's State law that limits the amount that can be awarded in cases of medical malpractice, the family will receive a fraction of that amount. It will mean that his mother and father and his two sisters and brother will be tending to his care for the rest of his life, as they would naturally, but they will have to do it much more because of his situation. It also means that ultimately the doctors and hospital that may have been responsible for this wrongdoing will not be held accountable but it will be the responsibility of the government to pay more and more of his medical expenses. That is not what the family wants, but look at the situation they face.

Do you believe the Gouley family hit the jackpot? This is jackpot justice? I can tell you what this bill would say. If your State does not have a limitation on recovery, this bill would say to Colin Gouley and his family: We are sorry this happened to you, we are sorry you were a victim of malpractice, but the pain and suffering you will endure for the rest of your natural life is worth $250,000. The verdict rendered by the jury of the Senate is $250,000 and not one penny more.

That isn't fair to the Gouley family, but, frankly, that is our idea of how to deal with the medical malpractice insurance crisis. At least that is what has been proposed.

We have to put a human face on this issue. We have to make sure people understand it isn't just doctors who face malpractice premiums, it isn't just people who are looking for care but cannot find it because doctors cannot practice in some areas because it is more expensive. The solution being offered by the Senator from Nevada and others is to limit the recovery of medical malpractice victims and their families, to limit the amount of money that would be paid to children who are the victims of medical malpractice.

There is no argument here about who is at fault. The fault was established by the jury. But this bill would say: The Federal Government will decide how much the Gouley family can receive. The Federal Government will decide how much Alan Cronin will receive for pain and suffering in those States that do not have a different limitation.

I guess what troubles me, too, is this bill does not go to the root issue that is before us. We were told by this administration, the Bush administration, through Dr. Clancy of the Department of Health and Human Services, that medical errors and medical malpractice have reached epidemic proportions in this country. Instead of dealing with medical malpractice at an epidemic proportion, what we are saying is the real way to control this problem is to make sure Colin Gouley and his family are not adequately compensated for the injuries and damages they have suffered.

That is so shortsighted and it is so fundamentally unfair.

If these malpractice premiums are unfair to doctors, I can tell you S. 11 is fundamentally unfair to Colin Gouley and his family and people like them across America.

Mr. President, 100,000 Americans will lose their lives this year because of medical malpractice, not because of their disease or illness but because of mistakes that are made—100,000 people. And that figure comes from the Bush administration Department of Health and Human Services.

Of those who could file a malpractice claim in any given year, 1 out of 50 actually do go to a lawyer and seek compensation; 2 percent, 1 out of 50. If we do not go to the root cause of this problem, this bow wave of malpractice that is about to swamp us in this country, then, frankly, we are not addressing the root problem. Instead, what we are doing is penalizing the Gouley family and others like them and rewarding insurance companies.

Do not be surprised by that. We do that on a weekly basis in the Senate. We find ways to take a special interest group, such as insurance companies, and give them more profitability, less accountability, whether it is HMOs, which, incidentally, are protected and rewarded by this same bill, or other insurance companies. That is the nature of the philosophy that drives the majority opinion in the Senate.

But families across America see it differently, and they should. This law we are considering, S. 11, unfairly is going to insulate from liability HMO insurance companies, managed care insurance companies, as well as drug companies and medical device manufacturers.

One last point I would like to make at this moment is they have a provision in this bill which says if your drug, for example, or medical device has been approved by the Food and Drug Administration, it virtually insulates you from liability for punitive damages. I asked my staff to prepare a list of the various drugs that have been marketed which have been found to be dangerous and deadly to people across America. Frankly, there are too many for me to list in the record at this point. I will submit them at a later time.

Why in the world would we want to put in this bill an insulation for those who make medical devices which end up killing people? Why in the world, in a bill that is supposed to be helping struggling doctors, are we talking about insulating from liability pharmaceutical companies that sell dangerous drugs?

Oh, the argument is, if it is approved by the FDA, that should be enough. We know better. Those of us who have been involved on Capitol Hill know we do not fund the Food and Drug Administration adequately. There are not enough people there doing the important work that should be done. We know they do their best, and we know that 9 times out of 10, maybe 99 times out of 100, they are going to make certain drugs are safe and efficacious, but we also know quite well that there are not enough people there doing the job that needs to be done.

Much like the tobacco companies hid behind the warning label on their packages when they were sued for cancer and heart disease, these drug companies, under S. 11, want to hide behind an FDA approval and say: We can't be held accountable for what we might have known or what we might have done if, in fact, somewhere along the way the FDA gave us a stamp of approval. That should insulate us from liability.

Think about what we are doing here, and think, for a moment, about the victims. If you love the companies, if you love the insurance companies, couldn't you have some love in your heart for these victims, some compassion for what they are going to go through? I think that should be an important part of the debate.

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

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. Mr. President, how much time is on each side?

The PRESIDING OFFICER. Nineteen minutes on the majority side, 13 minutes on the minority side.

Mr. ENSIGN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, first of all, let's make sure one thing is clear. What we are debating today is whether to proceed to the bill. We are trying to get on the bill. If people have certain problems with the bill, they can offer amendments, but only if they allow us to proceed to the bill. That is what the vote is on today, whether or not we are going even consider that we might address a crisis that is happening in the United States.

There have been a few things that have been talked about from the other side of the aisle today that I would like to address. I want to read from a report because they have been quoting this study. The Weiss study, which has been referenced repeatedly by the other side of the aisle, supposedly took numbers from this publication called the Medical Liability Monitor.

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

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

[From the Medical Liability Monitor, Oct. 2002]

2002 RATE SURVEY FINDS MALPRACTICE PREMIUMS ARE SOARING

HARD MARKET WALLOPS PHYSICIANS; AVERAGE RATE INCREASES MORE THAN DOUBLE THOSE IN 2001

A nationwide survey of rates for physicians' medical professional liability insurance confirms that not only has a hard market for this necessary coverage arrived, but from all indications, it is settling in to stay for awhile.

For the past 12 years Medical Liability Monitor has conducted an annual study of malpractice insurance rates. Reports come in from carriers in all 50 states who represent approximately 65% to 70% of the entire market. This year, that percentage may be even larger, now that former insureds of St. Paul and other companies who have quit the business must obtain replacement coverage and are moving to carriers remaining in the traditional market when possible.

For many physicians, whose incomes are held down by rigid government and health plan reimbursement schedules, coming up with funds to pay fast-rising insurance costs poses real problems. Here is a closer look at how malpractice insurance rates have risen in many places in the past year.

The chart below shows that the average cost of malpractice insurance for internists rose by 24.7% from July 1, 2001 to July 1, 2002. In 2001 the percent of increase was 10.1%. General surgeons' rates went up similarly, increasing by an average 25% in 2002 from 10.3% in 2001. The average increase in rates for obstetricians/gynecologists climbed from 9.2% last year to 19.6% this year.

For internists and general surgeons the average percent of increase in the 12-month 2001–2002 period was a staggering 145% and 143%. Increases for OB/Gyns, whose rates typically are much higher than those of their internal medicine and surgical colleagues, went up on average by 113%.

The effects of the rate increases were uneven, falling most heavily in certain states and metropolitan areas, like New York, Chicago, Detroit, Cleveland and Miami. Unlikely spots for exploding premiums were Las Vegas, West Virginia, and the Rio Grande Valley in Texas. Even though there were rate hikes in most states, they sometimes were more modest. Two states, Alabama and Alaska, had no increases at all. Insurers in several states raised rates only modestly. There were even a few, but very few, downward adjustments in rates for certain specialists in specific territories in a handful of states. One company in Alabama cut rates for general surgeons by 6%. A company in California pared rates for internists in certain areas by 4% and 7% and for obstetricians in other areas by 1% and 3%. An Illinois company lowered rates for general surgeons, except in Cook and two other counties by 4% to 8.6%. There were some modest reductions for certain type of physicians in two or three other states, but these were by far the exceptions, not the rule.

The size of increases in some areas in which malpractice problems with claims and claims severity have exploded was mind-boggling. Increases of 40%, 50%, 60%, 80% were not uncommon. In Arkansas one carrier boosted rates by 90.1% to 112.7%.

BASEMENT TO THROUGH-THE-ROOF VARIATIONS

The differences in premiums for specialists in various states and areas are widespread. Base rates for internists in South Dakota provided by one insurer, were $2,906, while the highest rate reported for these physicians was $56,154 in Dade County, Miami.

The extremes in base rates for general surgeons are even greater. In Minnesota one company's manual rate was $8,717, but in Miami the highest number quoted by a carrier for this specialty was $174,268. The wide swings were also typical for OB/Gyns. One company's rate for these physicians was $13,317 in South Dakota, but once again, the highest rate was $210,576 in Miami.

Mr. ENSIGN. Mr. President, the editor of this report has basically said the Weiss study they quote is completely misusing their numbers. I refer you to a portion of the report entitled ''Survey Finds Wide Swings in Premiums'' because my colleagues on the other side of the aisle state that there have not been these wide swings in premiums. The report says:

The size of increases in some areas in which malpractice problems with claims and claims severity have exploded was mind-boggling. Increases of 40 percent, 50 percent, 60 percent, 80 percent were not uncommon. In Arkansas one carrier boosted rates by 90.1 percent to 112.7 percent.

Notice what it said here. It said, ''malpractice problems with claims and claims severity have exploded.'' The premium increases have been ''mind-boggling.''

The Senator from Illinois has put up pictures of victims of malpractice. I want to show a picture of one of the victims, because there are victims on both sides of this issue.

Picture this gentleman shown here.

This was a gentleman, Mr. Lawson, who was visiting the city in which I live, Las Vegas, Nevada with his family. Unfortunately, the time they visited was the week the trauma center closed because of the crisis we have in the State of Nevada. The trauma center closed, and this gentleman, unfortunately, could not get care. In this picture he looks healthy. Unfortunately, he is no longer with us.

There are a lot of people the other side have shown as victims. Those people, if we do not do something, will not even have doctors to go to because doctors are leaving the profession, and new doctors are not coming in to replace them.

We have a crisis in this country in 19 States. All but six States are showing serious problems. The Senator from Illinois quoted my words yesterday, that it takes years to find out whether legislation in the States that have enacted reform will be effective. The reason for that isn't that they aren't necessarily good pieces of legislation, it is that they are being challenged in court and then appealed and appealed and appealed. A lot of the State courts are striking down these laws, because of some technicality in their constitution or a particular problem in their piece of legislation. Because of that, there is uncertainty even when States pass legislation if this crisis will remain out of control. The insurance companies don't know whether the laws are going to be upheld, so they can't lower rates because they may end up with a huge liability down the road if the law is struck down. That is the problem.

We must act now while we still have some time. How bad does the situation have to get in the future? I would love to add into this bill, as we did with campaign finance reform legislation in the year 2001, an expeditious judiciary review of the law so that we can find out whether it is going to be held constitutional or not. But we can't do any of that because the other side of the aisle will not even allow us to proceed to the bill. We can't debate the legislation and we can't offer any amendments unless we can at least agree to proceed to the bill.

If the opponents don't like the legislation, if they think there are ways to fix it, they should allow us to at least proceed to the bill so that we can have amendments offered, have a full debate, bring out all the pictures of the victims you want to bring out, amend the bill, and come up with legislation that is going to actually fix the problem in the United States. It really is a crisis and you can be sure that debating on the motion to proceed, and not agreeing to take up the bill will not fix the problem.

I wish to again illustrate the differences in the premiums across the country by the use of this chart. In white are the two States with cities represented that have had medical liability reforms in place for some time.

I yield myself an additional minute.

The ones in gray have not.

Let's go to obstetrics and gynecology. Los Angeles, CA, the bill before us today mirrors the law they have there. There is a $54,000 medical liability premium in Los Angeles. In Denver, where they have had it since 1988, it is $30,000. New York, Las Vegas, Chicago, Miami are much higher: $89,000, $108,000, $102,000, over $200,000 in Miami. That illustrates the difference in the premiums in States that don't have the reform. These numbers are continuing

to go up at a rapid rate. The numbers reflected here are actually a couple years old, and they are continuing to skyrocket in States without reform. That is why we need to act. It is a national priority, and we must act now.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I yield myself 5 minutes.

My question is, Why do we need to consider a bill of this magnitude without taking it through the ordinary committee process? The Senator from Nevada said yesterday, we just know we would never get it out of committee. I am a little bit surprised at that because, if I am not mistaken, it is the party of the Senator from Nevada that is the majority in every committee that would consider this bill. If they are truly looking for a bill that is fair and one that compromises where necessary and negotiates a good-faith outcome, then it would come out of committee. And certainly with the direction of the majority leader, Senator FRIST, who has spoken in favor of it, there would be an urgency to it.

That is not the way this bill is being considered. This bill is coming to the floor without committee hearing. They haven't had a chance to hear the witnesses, not the four malpractice victims and their families we met yesterday, not the doctors on both sides of the issue, not the practicing attorneys, not representatives of the insurance companies, none of them, no hearings from them, no statements from them, no suggestions from them. I don't know where this bill came from.

I can tell you the people who want it: Not only the American Medical Association but clearly those who represent HMOs and managed care companies that are insulated from liability under this bill, those who represent prescription drug companies that are insulated from liability under the bill, as well as medical device manufacturers. They put this bill together.

Mr. ENSIGN. Will the Senator yield for a question?

Mr. DURBIN. On the Senator's time I am happy to yield.

Mr. ENSIGN. Is the Senator aware, last year, when his party was in control, 115 bills bypassed the committee process, including the economic growth package, No Child Left Behind, the Patients' Bill of Rights, a Medicare prescription drug bill, the energy bill, and the Trade Promotion Act? All were brought directly to the floor and bypassed the committee process. Is the Senator aware his party did that?

Mr. DURBIN. I am aware of that. I also have quotes from Republican Senators who screamed in outrage every time that happened.

S. 11 is too important for us to consider without deliberation. It is too important for us to ignore that this bill is an historic precedent. It will take away from States across America the power they have had from the beginning of this Republic to establish standards for procedure and recovery in civil lawsuits.

That is something that, honestly, we do very rarely around here. If we do it, if we consider it, as we are right now, for example, on the asbestos issue, it is with a long and deliberative process. Not so when it comes to medical malpractice. This is being brought to the floor on a take-it-or-leave-it basis. When you say take it or leave it, I hope my colleagues will leave it because the thought that we would limit recovery to $250,000 for pain and suffering for every case defies logic, common sense, and compassion. If you are looking for compassionate conservatives, you won't find them in those supporting this bill.

Let me give one illustration. This poor lady is from the city of Chicago. She had two moles on the side of her face. She went to an outstanding hospital to have the moles removed. She is about 50 years of age. During the course of the simple surgery, she was receiving oxygen. They were using a cauterizing gun, which you are not supposed to do. As a consequence, there was an explosion with the oxygen. Her face was literally burned off because of the fire which happened.

Her nose was so burned and scarred, she went through several successive surgeries and, even after those surgeries, has to rely on oxygen tubes to breathe 23 hours a day. It is anticipated she will go through more surgeries to deal with the scarring and disfigurement and problems she has had. She is in her fifties. She went in for simple surgery. She came out disfigured for life.

According to this bill, the hospital and doctor responsible for it should both come together and pay her medical bills. I certainly hope so. If she bought health insurance to cover her own medical bills, that would be brought up in the courtroom, so that the jury might not believe she receives quite as much money because her payment of health insurance, frankly, would be used against her. She would receive lost wages for time off the job. That is reasonable. But when it comes to the pain and suffering she will endure and has endured from the moment this occurred until the day she dies, the jury of the Senate has reached a verdict through this bill: She is entitled to recover not one penny more than $250,000 for a lifetime of disfigurement.

She wrote an article in the Chicago Sun-Times and said: How many of you would trade what I went through for $250,000? The answer, obviously, is no one. No one would.

For those who come before us today and say this is the only way we can deal with the medical malpractice insurance crisis is to ignore what happened to this woman who went in for routine surgery and saw her life tragically changed. That is what is wrong with the bill.

What we need to do is to be honest about addressing malpractice. I have not heard one word from the other side of the aisle on how we can reduce medical errors. What can we do about HMO insurance companies making medical decisions when in fact doctors know better? It is happening. This bill does nothing about that.

What can we do about the nursing shortage which accounts for 20 percent of the deaths in hospitals each year for malpractice? Nurses overworked. They can't keep up with the caseload, the patients coming. This bill does nothing about that.

The PRESIDING OFFICER. The Senator has consumed 5 minutes.

Mr. DURBIN. I yield myself an additional 1 minute.

This legislation addresses the issue from one perspective only. To deny to this person and other victims an opportunity for their day in court, to say we don't trust a jury in America, in any State in the Union, to make a decision on the death penalty in a criminal case, or we cannot trust a jury in Chicago to make a decision on what she is entitled to receive because of the injuries she endured in that one tragic moment in the hospital, that just defies logic.

It says to me that this bill is being brought to us by insurance companies, by drug companies, by HMOs, by medical device manufacturers, and it is not being brought to us with an eye toward solving a serious national problem of bringing down malpractice insurance rates.

I am going to reserve the remainder of my time. When I return, I will talk about an alternative bill that Senator GRAHAM of South Carolina and I are offering, which addresses this in a more responsible and timely fashion. I reserve the remainder of my time.

Mr. ENSIGN. Mr. President, I think we have 12 minutes 20 seconds on our time. How much time is on theirs?

The PRESIDING OFFICER. Six and a half.

Mr. ENSIGN. Two Senators have just come into the Chamber. As soon as they are ready, I would like to yield them 10 minutes and reserve 2 minutes on our side and we can close up. At 11:10, the Democratic leader will be recognized. So I will yield 10 minutes to the Senator from Missouri, Mr. BOND.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I rise to speak about the Patients First Act of 2003. Going to the doctor for a checkup is hard enough these days. You have to juggle your family and work schedules. A few of us get all the checkups and screenings we need, but making matters a lot worse is the fact that more and more doctors are closing their practices or limiting the services they offer. They are doing so because they cannot afford the increasing costs of their medical malpractice insurance, which they are required to carry.

According to the American Medical Association, 19 States are in a full-blown medical liability crisis, including, regrettably, my home State of Missouri.

In Missouri, physicians' average premium increases for 2002 were 61.2 percent. This was on top of increases in 2001 of 22.4 percent. As a result, over 31 percent—almost one-third—of all physicians surveyed by the Missouri State Medical Association said they are considering leaving their practices altogether. Let me repeat that. Almost one in three physicians in Missouri are considering leaving their practices altogether because they simply can no longer afford to practice because of exorbitant medical malpractice insurance rates.

In some cases, medical liability insurance rates are tripling in Missouri, forcing older doctors into retirement and younger physicians into other fields.

What is the cause of that? The cause, quite frankly, is the unrestrained plaintiffs' legal actions asserting all kinds of noneconomic and economic damages, which are paid, ultimately, by the consumers who must compensate the doctors or lose their doctor services because of the rates of malpractice insurance. Those judgments go against doctors, and they have to be paid by insurance companies. But the insurance companies raise their rates and drive good and bad doctors out of practice.

According to the Missouri State Medical Association, 32 insurance companies are licensed to write professional liability insurance for Missouri physicians. Currently, only three of them are willing, or able, to write new business. Three companies, which accounted for almost one-third of Missouri's markets in 2001, have left the State of Missouri altogether. The result: doctors who have practiced for years in Missouri are closing their doors, moving their practices and families across State lines, or limiting the care and services they provide. It is happening in my State and it is happening across the country.

But this is not just a problem for doctors. They are well educated, and they can move elsewhere and resume their practice, as difficult and unfair as that is. The real damage and pain is being felt by the patients, or people who would be their patients if they had the choice. Look at what is happening in Kansas City, MO, for example. Twelve doctors at the Kansas City Women's Clinic, founded in 1953, used to serve women in Missouri and Kansas. Because of rising medical liability rates, the clinic could not find a single company that would offer them a single medical malpractice insurance policy that they need to keep their office open in Missouri. The result: On December 31, 2002, they closed their doors to Missouri patients. They closed their doors.

There were over 6,600 visits a year in the Missouri office. Now women in Kansas City, MO, tell me that when they are expecting a child, in order to go in for a checkup, they have to go to Kansas—drive across the State line to Kansas. They either travel to Kansas to see an obstetrician/gynecologist or try to find a new doctor elsewhere in Missouri.

In a recent letter, Dr. Anthon Heit, president of the Kansas City Women's Clinic, said:

> Our loyal patients from Kansas City, Missouri, and many surrounding Missouri communities, lost large, well-respected groups of OB/GYN physicians as a source of their maternity care. This type of action is going to continue to occur in the Kansas City area, and in many other specialties, if the trend does not reverse.

Sadly, that is not an isolated case. Also in Kansas City, the Midwest Women's Health Network suffered a 170 percent increase in the cost of its medical malpractice insurance. It used to pay $200,000 a year for liability coverage. Now it pays $543,000.

Two Kansas City inner-city OB/GYNs, who serve low-income, high-risk patients, had to sell their practices to their hospital in order to continue to see patients in Missouri. Excessive litigation has created an environment that forced these two doctors—committed to serving some of the most vulnerable in Kansas—out of business. They are no longer in independent practice.

One OB/GYN practice in Missouri is taking out a $1.5 million loan to pay its medical malpractice insurance for this year. That doesn't even cover the cost of previous actions over which they might subsequently be sued. Other doctors in Missouri are considering going without insurance for those past actions, or the ''tail'' coverage, as it is called, because they cannot afford the premiums.

In Missouri, this year alone, we have already lost 33 obstetricians and it is only July. If this trend continues, potentially 3,564 pregnant women in Missouri will be forced to find new physicians annually to provide their obstetric care—probably outside of the State—thus, interrupting continuity of care and long-established physician-patient relationships upon which so many women have come to rely.

Patients cannot get the care they need. The communities are losing their trusted doctors. We have a health care system that is in crisis in Missouri.

Mr. President, I yield such time as he may require to my friend and colleague from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, may I inquire as to how much time remains that was yielded by the Senator from Nevada to the Senator from Missouri.

The PRESIDING OFFICER. Four minutes 45 seconds.

Mr. ROBERTS. I thank the Chair.

As his neighbor to the west, I share Senator BOND's concern for our health care providers and patients. But it seems that we have a ''tale of two cities'' between Kansas City, KS, and Kansas City, MO.

Just across the State line, we in Kansas have problems and challenges. But we don't have the same severe problems Missouri doctors and patients are facing. That is because, in the 1980s, Kansas enacted sweeping medical liability reform legislation that does create a hard cap of $250,000 on noneconomic damages.

By contrast, that same cap in Missouri is $557,000 and can go even higher under certain circumstances. As the Senator from Missouri said, you won't find it surprising that nonsurgical specialists in Missouri are now seeing very dramatic liability premium increases that have been, until now, limited to surgical specialties. One pulmonary practice's quote for traditional insurance went from $35,000 to $125,000 per year. Another pulmonary specialist quit practicing at North Kansas City Hospital because he couldn't afford the premium on his Missouri practice. Now, as the Senator knows, he practices in Kansas.

Here is another example.

We have learned that both neurosurgeons in Independence are moving out of Missouri this summer leaving eastern Jackson County with no neurosurgeon. There is no trauma care basically between the Kansas State line and Columbia, 2 hours to the east.

According to the Kansas Medical Society, the two largest companies in Kansas that provide medical liability insurance, Kansas Medical Mutual Insurance Company and Medical Protective, had increases that were not nearly as excessive as the increases in Missouri. Kansas Medical Mutual, the largest insurer in Kansas, took rate increases of 16.2 percent last year and 8.5 percent this year. Medical Protective took a 13-percent increase last year.

Premiums for the standard policy in Kansas that have been available for the last 15 to 20 years were actually lower in 2002 than they were in 1991.

As I have stated, premiums for the standard policy in Kansas are actually lower than they were in 1991. I simply want to make the point in the short time I have that we have a tale of two cities. We have a Kansas law in which we have 15 percent more doctors in Kansas than in the past. Their premiums are not excessive. People are leaving Kansas City, MO, to practice in Kansas. It is a tale of two cities. That is why I think we should support the bill that has been authored by the Senator from Nevada, S. 11.

A study by Weiss Ratings on medical malpractice caps was mentioned yesterday evening. The study found that States with caps experienced higher premium increases than those States without. I cannot speak for other States but I can speak for Kansas, and the reports conclusions were untrue.

First, as I have stated, premiums for the standard policy in Kansas are actually lower now than they were in 1991.

Secondly, the point needs to be made that all caps are not the same. The Weiss report lists the 19 States with caps, but only 5 States, including Kansas, have $250,000 caps on noneconomic damages. The rest are significantly higher, thus reducing the cap's impact on payouts and premiums.

There is no question that the cap on noneconomic damages has had an impact on premiums. It has created an unparalleled period of premium stability for Kansas physicians and hospitals. Yes, premiums are increasing in Kansas but at a much lower rate that other States.

Case in point: a family physician who delivers babies paid $13,790 in 1991 . . . . in 2001, that same physician paid $12,575—an 8.8 percent reduction. Similar reductions exist for virtually every specialty. In the aggregate, physicians paid $75.3 million in premiums in 1991 and $60 million in 2002.

Finally, I wish to point out that there are probably about 15 percent more physicians practicing in Kansas today than there were 12 years ago, and the total premium is still lower.

Senator BOND and I have shared with our colleagues what good medical liability reform can do.

Our Kansas City doctors have provided an outstanding example of how medical liability affects doctors and patients on different sides of the State line.

I urge my colleagues in the Senate to take a closer look at the differences between our two States and the positive impact medical liability reforms have had in Kansas. I hope that the Senate will support S. 11 so that States like Missouri which are struggling to retain doctors and offer the best patient care are not left out in the cold.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

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

The PRESIDING OFFICER. Six and a half minutes.

Mr. DURBIN. I thank the Chair.

Mr. BOND. Mr. President, I wish to reclaim the remaining time. How much time is remaining?

The PRESIDING OFFICER. The Senator will have 1 minute 30 seconds left, but the Senator from Illinois has been recognized.

Mr. DURBIN. Mr. President, I yield to the Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague and fellow Cardinal rooter from Illinois for allowing me to finish.

It is important, as I hope the Senator from Kansas and I have pointed out, that we must do something on a national basis. Missouri patients cannot continue to lose their trusted doctors to the State of Kansas. We cannot see people driven out of the practice of medicine—well-educated, good practitioners who cannot afford the premiums. Unless we act today, retaining and recruiting doctors in Missouri will continue to be a difficult task.

I urge my colleagues to consider the experience of patients in Kansas City and across Missouri and support the essential medical liability reforms in S. 11.

Mr. President, I ask unanimous consent that an editorial in today's Wall Street Journal entitled ''Political Malpractice'' be printed in the RECORD.

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

[From the Wall Street Journal]

POLITICAL MALPRACTICE

Democrats are expected to muster the 41 votes needed to kill medical liability reform in the Senate today, so why are Republicans smiling? Perhaps because they know they're teeing up what promises to be one of their better issues going into 2004.

Democrats have long made the Senate the graveyard of any and all legal reform. The news is that they're having a harder time getting away with it. The scandal of asbestos litigation has forced them at least to bargain on that issue, while momentum is also building to limit class-action suits. It says something about Tom Daschle's devotion to the trial bar that he's willing to ask his Members to walk the plank even on medical liability, just as voters are discovering the damage it is doing to health care across the country.

No fewer than 19 states are in ''malpractice'' crisis; Doctors have protested or walked our from Nevada to New Jersey, while pregnant women have had to cross state lines to find an obstetrician. One New Jersey doctor has held seminars to train toll-booth operators in emergency delivery, since more live births are likely to occur in transit to a distant hospital.

Before Texas passed a recent reform, 14 of 17 medical insurers had left in the past two years. In Arkansas, doctors who treat nursing-home patients face a 1,000% premium increased on renewals. In West Virginia, trauma centers closed and doctors went on strike before Democratic Governor Bob Wise led a successful reform effort. Because they contribute to the practice of ''defensive'' medicine—or unnecessary procedures just to be sure—liability suits are also a major cause of rising health-care costs.

All of this prompted the House to limit medical damages by a vote of 299–196 in March. But Senate Democrats continue to just say no. California's Dianne Feinstein dallied with support for a while, before the lawyers and Mr. Daschle yanked her back into line.

The irony is that the proposed Senate bill is modeled after California's own successful 1975 reform that limited pain and suffering damages to $250,000. Victims of genuine malpractice still get compensated for economic harm, but they are no longer able to win the lottery of a huge jury award. In the past 25 years premiums across the U.S. have risen three times more than in California.

Even if reform fails in Congress, the national battle has helped to trigger a wave of change in the states. Ten states have passed some liability reform in the past year, and another 17 have debated it. Nearly all of these reforms include some limit on non-economic damages, the kind that drive insurance rates out of sight and are unconnected to genuine harm.

Still more state reforms are on tap this year. Florida Governor Jeb Bush is calling his legislature back for an unprecedented second session starting today to address the problem. Connecticut, where obstetricians will seen an 85% increase in premiums for next year, may also have a special summer session.

As federalists, we think this wave of state reform is probably better than a single national law. Unlike class actions, which damage commerce nationwide, medical liability affects health care in individual states. If a state's political-legal class is driving doctors away, then its voters can throw the political bums out. That may be what eventually happens in Missouri, for example, where Democratic Governor Bob Holden is promising to veto reforms passed by the GOP-run legislature. There's also a danger that a national reform might override even better state laws, such as California's.

The argument for national reform is that the crisis is too acute to wait for 50-state trench warfare, especially against a trial bar grown so rich on tobacco and asbestos shakedowns that it can buy entire legislatures. Some states in crisis, notably Pennsylvania, also have constitutional obstacles to capping non-economic damages. And yet reform's recent success shows that is can be done.

The vote in Congress will help this along by educating Americans about the problem and who refuses to solve it. Among Republicans, we'll be watching Pennsylvania's Arlen Specter in particular. He's typically a pal of the trial lawyers (his son is a medical liability lawyer), but he also faces a primary challenge next year from a reform proponent, Congressman Pat Toomey.

But the main result of today's vote will be to get the Democrats on record for killing reform one more time. They will then have handed President Bush and most Republicans an issue that is both good policy and good politics for next year. In a debate between lawyers and patients, we know where the voters will come down.

Mr. BOND. The Wall Street Journal says:

As federalists, we think this wave of state reform is probably better than a single national law. Unlike class actions, which damage commerce nationwide, medical liability affects health care in individual states.

It goes on:

The argument for national reform is that the crisis is too acute to wait for a 50-State trench warfare, especially against a trial bar grown so rich on tobacco and asbestos shakedowns that it can buy entire legislatures.

I yield the remainder of my time. I thank the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let me say at the outset, we have talked a lot about the Patients First Act that is before us, S. 11. As far as I can tell, this is ''patients last.'' It says, regardless of the injury you sustained because of medical errors, medical negligence, medical malpractice, we are going to limit you to $250,000 that you can recover for your pain and suffering no matter how many years you have to endure.

This is a photograph of Sharon Keller whom I met yesterday, a proud registered Republican, as she announced in our press conference. After a hysterectomy, she went into the doctor's office for an exam. Unfortunately, the surgeon, as she examined her, made a move and removed a suture and bleeding started. When the bleeding became excessive, the doctor left the room and left Sherry on the examining table as she went out to find someone

who could respond to the need and, at the same time, went to see some other patients while Sherry was bleeding on the examining table.

Unfortunately, after a period of time, she went into shock and fell off the examining table, as she was left unattended in the examining room. When she fell off the table, she hit the counter as she fell and damaged her spinal cord, rendering her an incomplete quadriplegic.

In this state of bleeding and virtually paralyzed, she dragged herself out into the hallway to beg for help. The doctor called an ambulance to take her to the emergency room but said: Just transport her; you do not need to treat her on the way. She waited several hours at the emergency room before they eventually treated her. She will never walk again. She is a housewife and mother who had no lost wages because of this and, frankly, because of this bill, she would be limited to recover $250,000.

Is that jackpot justice? Has Sherry Keller made out like a bandit—$250,000—for what she is going to go through for the rest of her life? Is she being treated first as a patient? She is being treated last, and that is unfortunate and unfair.

There is a medical malpractice insurance problem in America. We should address it in a responsible way and not at the expense of victims such as Sherry Keller.

Senator GRAHAM of South Carolina and I have introduced a bill as an alternative to this which we believe is a constructive first step toward dealing with this.

First, to increase patient safety efforts across the United States to reduce malpractice.

Second, to provide an immediate tax credit for doctors and hospitals for their malpractice premiums. Doctors and hospitals cannot afford to wait 8 to 15 years, as the sponsor of this legislation says it will take, before limiting the recovery of victims results in lowers premiums.

Incidentally, there are people in the insurance industry who will not even say it will result in any reduction in premiums over a period of time.

We also repeal the antitrust exemption given to the insurance industry, which is totally unfair, which will end collusion among those companies in setting rates.

We reduce frivolous lawsuits in saying to attorneys, those few bad actors: If you do it, we not only will fine you, but ultimately we will prohibit you from filing this type of lawsuit.

We give grants to hard-hit areas described in Missouri, Kansas, Illinois, and North Carolina, so they can deal with losing doctors and hospitals. We say that punitive damages are going to be allowed in only the most egregious cases, serious intentional situations. But if a doctor has been involved in helping his or her community through Medicare and Medicaid, they would be immune from punitive damages in medical malpractice cases.

We do not provide this great protection for the drug companies and the medical device manufacturers who decided to jump on this medical malpractice bandwagon for the ride and limit their own liability.

We do not preempt State laws. Individual States can still make decisions they made historically, and we do provide statute of limitations be decided by each State.

This is going to result in lower premiums and better situations for people across America. It is a better way to go. I, frankly, think we have to look at the root causes of the malpractice insurance problem. First is the incidence of malpractice of epidemic proportions, according to the Bush administration. That is the root cause.

Secondly, the malpractice insurance companies, when they made investments during the Clinton era, as the stock market was booming—and we all remember that—they did quite well. When the bottom fell out a couple years ago in the stock market, so did their investments.

What does an insurance company do when their investments start to lose ground? They raise the premiums on the doctors. That is what is going on here. We are being asked to penalize patients and victims of medical malpractice because of the investment practices of insurance companies. We are riding to the rescue of insurance companies at the expense of children whose lives are forever damaged and changed because of medical malpractice. We are putting limitations on recovery for people who are innocent victims so we can help the bottom line and profitability of insurance companies.

Time and again, this Senate races to protect special interest groups and forgets the families, children, and elderly people across America who are the victims of this wrongdoing. That is not fair to them. It certainly is not fair to this country.

I end by saying to doctors and hospitals across this country, after we defeat this bad bill, let us come together for a reasonable solution to reduce medical malpractice, to bring in the insurance companies and hold them accountable and say to the legal profession they must guarantee to us as well that there will be responsible conduct on their part.

I reserve the remainder of my time.

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

Mr. ENSIGN. I have 2 minutes and 20 seconds remaining.

The PRESIDING OFFICER. There is no time remaining.

Mr. ENSIGN. I yielded to the Senator from Missouri and reserved 2 minutes and 20 seconds for myself.

The PRESIDING OFFICER. It is my understanding the Senator from Missouri used that time.

Mr. DURBIN. If I might, I am happy to yield 2 minutes to the Senator from Nevada. I ask unanimous consent that the Senator from Nevada have 2 minutes.

Mr. PRESIDING OFFICER. There is no time to be yielded.

Mr. SCHUMER. Mr. President, as I understand it, I have 10 minutes.

The PRESIDING OFFICER. Under the previous order, at 11:10, the Democratic leader will be recognized for 10 minutes. At 11:20, the majority leader will be recognized for 10 minutes.

Mr. SCHUMER. I designate myself as the Democrat to control those 10 minutes.

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

Mr. SCHUMER. I am happy to yield 2 of those 10 minutes to the Senator from Nevada, and I will then take the next 8 minutes.

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

The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank my colleague for the time.

I will make a couple of quick points. First, we have seen a lot of pictures from the Senator from Illinois. He talked about the $250,000 cap on damages included in this bill. Let's get one thing straight. It is a $250,000 cap on pain and suffering.

He put up a picture of a young child. I will read some of the totals. California has comprehensive medical liability reform in place that this bill I have presented today is modeled after. These are the following awards, and these are almost all economic damages or medical damages that were awarded to these infants: $43,500,000 in May 2002; July 1999, $30,800,000; April 1999 in Orange County, almost $7 million; January 1999 in Los Angeles County, almost $22 million; December 2002, $84 million. So for pictures to be put up and to say, what is this child going to get, this child can get a lot. Most of these awards are in economic damages or in medical expenses. Those damages are not capped in this bill.

The next picture we have to put up is a woman with her child. Because there was no OB/GYN available, she had to deliver this child on the side of a road by herself. Unfortunately, the patient did have complications, and the mother had to provide CPR to the baby on the side of the road in the middle of the Arizona desert. Thankfully, the baby survived. But she could have had serious consequences, and then they would not have been able to get compensation from anybody. And this is because there was no care available at the community hospital that she had to bypass because the doctors could no longer afford the premiums because of the frivolous and outrageous lawsuits that are destroying our court system.

I yield the floor.

NOMINATION OF VICTOR J. WOLSKI

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask that I be given 4 minutes of the remaining 8 and the Senator from Illinois be given 4.

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

Mr. SCHUMER. Mr. President, I want to repeat the arguments against Mr. Wolski. Something new has happened since I spoke an hour ago. The AFL-CIO has come out against him, which is understandable, because of his ideology.

Mr. Wolski should be defeated for two reasons. First, he is an ideolog. This important court, when it comes to the environment, does not deal with much else we would care about, other than just claims issues, and we should not have somebody who is a self-described ideolog. Let me repeat that Victor Wolski, in his own words, said every single job he has taken since college has been ideologically oriented, trying to further his principles, which he describes as a libertarian belief in property rights and limited government.

I do not think the Founding Fathers intended judges to be ideologs. That is why they have us advise and consent, so that if a President, as this President does, sees judges through an ideological prism and does not nominate moderates—I do not like judges far right or far left—when he nominates them, we can be the check. We have used that power judiciously. We have defeated or filibustered only two of the 134 nominees the President has made.

This man deserves to be defeated. He is an ideolog, way over. If my colleagues believe we have made advances in clean water and clean air, his theory is that any type of environmental law is a taking, which denies the compact on which we all live: That if someone lives upstream on a river from somebody else, they do not have the right to dirty that river and foul the water of the person who lives downstream. If someone lives 100 miles east and they own a factory where the winds blow in that direction, they do not have a right to spew SO2 and NO2 in the air and foul the lungs of people who live downwind.

Mr. Wolski does not believe in that. He says if someone has the money and can build the plant, go build it. That is the core of his beliefs in terms of takings. So he is an ideolog. He does not have the temperament for the bench, as mentioned. He said that Members of Congress were, and this is his word, bums. If he does not like us, he has a right to denounce us, but that is not the kind of word of a person we want to see as a judge.

Just as importantly, whatever one's views on Wolski, this is a boondoggle, a waste of money. The average number of cases a court of appeals judge handles is 355. The Court of Federal Claims handles 24. If we add these judges, it will go down to 19—a million-dollar boondoggle.

The Washington Post, in an editorial, called it the ''Court of Extravagance.'' When President Clinton was President, Members of the other side refused to fill these vacancies, stating there were too few cases and too small a workload. Well, the workload is even smaller and we are nominating four judges. We do not have money for all of what we are talking about—prescription drugs health care, education—and we are doing this. It is wrong. It is hypocritical of those who have said in the past that this court should not be filled, because it has such a low caseload, to fill it now.

I urge Mr. Wolski's nomination be defeated.

Mr. SANTORUM. Mr. President, I rise in support of proceeding to the consideration of S. 11, the Patients First Act. The issue of medical liability reform has been studied extensively, and clearly Federal policymakers have an obligation to address the explosion in litigation across the country and jackpot-sized awards that are having a severe impact on doctors, hospitals and patients' access to care.

This is a national crisis that requires a Federal solution. The crisis is not confined within State lines, as patients are losing access to physicians within their State and are having to cross State lines merely to get access to care. Similarly, physicians are being forced to leave their practices due to high insurance rates, and relocate to a State that has enacted some type of reasonable reform that has remained on its books through judicial review.

In Pennsylvania and many other States, health care providers are facing enormous increases in their medical liability insurance premiums or are unable to obtain coverage at all due to a significant rise in scarce resources being drained from our health care system because of sporadic and sometimes frivolous health care litigation. As a result, real patients are being denied access to care and losing their family doctors because of exorbitant medical liability costs.

In some States including Pennsylvania, some ob-gyns have been forced to stop delivering babies, trauma centers have closed, and physicians are grappling with how they can continue to provide other high-risk procedures. South Philadelphia now has no operating maternity wards. In Fayette County, a practice of three obstetricians that delivers half of the babies born in the area stopped delivering babies when faced with a premium increase from $150,000 in 2002 to $400,000 in 2003. And according to the Pennsylvania Medical Society, 72 percent of doctors in our State have deferred the purchase of new equipment or the hiring of new staff due to increased medical liability costs.

To be sure, Mr. President, the health care profession is not free of error. And I fully support a person's right to seek just compensation when they are harmed by negligent or improper medical care. And I also fully support initiatives referenced over the past couple of days that would help to root our and prevent medical errors. But escalating jury awards and the high cost of defending against lawsuits—even frivolous ones—are driving up liability premium increases, with devastating results for patients.

According to Jury Verdict Research, the median jury award increased 43 percent in just one year, 1999–2000. More than half of all jury awards today top $1 million, and the average jury award has increased to $3.5 million. And the vast majority of medical liability claims do not result in any payments to patients.

And so how does this impact patients? Quite simply, medical professionals are fleeing from areas where medical liability premiums are escalating at a rapid pace. We have heard of many horror stories over the past couple of days and in Congressional testimony about patient access to care being adversely affected. The Wilkes-Barre Times Leader, on October 23, 2002, reported the experiences of one of my constituents in Northeastern Pennsylvania who suffers from two herniated disks, having to travel an entire day because high insurance premiums have decreased the number of neurosurgeons.

The truth is—every American pays the price for this country's liability crisis, and Congress and the President have a responsibility to fix this very serious problem.

Pennsylvania's own Representative JIM GREENWOOD has been a strong leader on this issue and has introduced the bipartisan HEALTH Act, legislation which would put in place new Federal minimum standards for liability reform, based on measures that have been proven to be effective in States like California with its proven MICRA reforms, to help prevent excessive awards that are driving up health care costs, encouraging frivolous lawsuits, and promoting time-consuming legal proceedings.

The Patients First Act we are seeking to consider here in the Senate is largely based on the House-passed HEALTH Act, and includes many commonsense provisions which can serve as a bipartisan model for medical liability reform. It would establish a reasonable Federal fall-back cap on non-economic and punitive damages, but would allow States the flexibility to set levels higher and lower if they choose. It would allow for unlimited economic damages, and would ensure fair allocation of damages, in proportion to a party's degree of fault. It would also ensure that more of the awards from meritorious cases are paid to the patient instead of trial lawyers.

Far from limiting the opportunities of patients to seek redress in the courts, S. 11 would ensure full and unlimited recovery of economic damages, of medical expenses, of rehabilitation costs, childcare expenses, all current and future wage earnings that are lost, including employer-based benefits, and any other economic losses.

We have heard a lot from the other side of the aisle about how this legislation would somehow limit patient access to the courts by forcing a Federal mandate to limit non-economic damages to $250,000. This is completely false, and the other side of the aisle knows it. S. 11 would give States the flexibility to establish or maintain their own laws on damage awards, whether higher or lower than those provided for in this bill.

And the experience of California shows that injured patients have not only maintained access to the courts, but in many cases have received multi-million dollar awards in economic damages, including minors and non-working spouses.

The opponents of moving to consideration of this bill have also tried to move the spotlight away from the underlying issues of cost and access and suggest that the answer lies in insurance reform. This is a flawed argument that takes needed attention away from the real problems.

Suggestions that liability rates are high because insurance companies are trying to recover past losses are, quite simply, factually wrong. As a matter of law, medical liability rates are determined by estimates of future losses from claims. State regulators are already required by law to reject liability insurance rates that are excessive. Changing insurance laws will do nothing to change the underlying reason for rising premiums—an increase in meritless litigation and skyrocketing jury awards.

President Bush is committed to passing balanced bipartisan legislation that will put reasonable limits on liability lawsuits while allowing compensation for patients truly harmed by medical malpractice. Such reforms can save the Federal government and our health care system tens of billions of dollars in rooting out frivolous lawsuits and reducing defensive medicine.

We can and should create a medical liability system that more equitably and rapidly compensates patients who have received substandard care, but which at the same time limits frivolous lawsuits and increases access to health care by reducing the excessive costs of the system.

Mr. President, we have an obligation to at least move to consideration of this bill, to have the opportunity to offer amendments, and to show the American public that Congress is capable of working toward real solutions on this growing health care crisis.

Mrs. DOLE. Mr. President, today the Senate must make a decision that will affect the entire state of our health care system. For years, America has enjoyed world-class health care. We have led the way in cures and treatments, we have developed the latest and the best technologies, and we have ensured that our doctors are trained in ground-breaking procedures. Indeed, our Nation has accomplished much in the area of health care.

But today the future of our world-renowned health care system sits in the balance as this Senate mulls two very important choices. Will we succumb to some trial lawyers who have nearly crippled the system by filing hundreds of frivolous lawsuits each year? Or will we do the right thing and place limits on these lawsuits and the big-money fees lawyers earn off of them, so that our doctors can have the peace of mind they need to do the job they love? I challenge my colleagues to do the latter.

America is in the midst of a crisis. Those who need health care, the most vulnerable and sickest among us, are the real victims. We have all heard their stories. Too many of our patients can't get doctors, can't get specialists, can't get health care. In North Carolina, rural residents have been among the hardest hit. Patients tell stories of driving miles just to find a doctor to treat an illness. There have been reports of women driving for miles and miles just to find someone to deliver their baby. This is beyond unacceptable. No one in this country should have to struggle like this for health care. The America I know is better than that.

I have heard from doctors in my State. And this crisis is having a detrimental effect on our medical providers. Too many of them can't afford rising malpractice insurance rates. They have had to curb their medical practices, stop taking some patients, move to another State and perhaps the most painful, leave the profession altogether. Dr. Jack Schmitt says his insurance premiums went from $18,000 to $45,000 a year. He eventually decided to leave his practice and teach at the University of Virginia Medical School.

Doctors who decide to remain are forced to practice defensive medicine and order an excessive amount of tests and procedures to protect themselves from lawsuits. Dr. Steve Turner of Garner estimates that internists like him prescribe close to $5,000 a day in defensive medical practices or $1.2 million a year per doctor. This cannot continue.

North Carolina is included on a list of 18 States that the American Medical Association says is suffering from a medical liability crisis. According to the AMA, some North Carolina hospitals have seen their liability insurance premiums rise three- and five-fold in the last few years. Specialists—like our obstetricians, emergency doctors, and anesthesiologists—are seeing even higher increases.

Consider this: Novant Health, the corporate parent of Presbyterian Hospital in Charlotte, saw its malpractice insurance increase by 114 percent between the years 2000 and 2003. They are now paying $4.5 million in malpractice insurance.

In Catawba County, doctors participating under the Network of Primary Care practices have been told that because of rising premiums, charity care will no longer be purchased for them under their policy. This means if doctors want to volunteer their medical services at a soup kitchen, homeless shelter, or some other charity, they are going to have to first buy separate, costly insurance coverage themselves.

Even our Level III trauma center in Cabarrus County is in danger of closing after premiums increased 88 percent. The list, the stories, and the pain are endless.

The legislation before us is a solution that we know works. It is modeled after California's MICRA law which has been in place since 1975 and has kept insurance premiums down in that State. This legislation does not cap damages. Victims who suffer from a doctor's malpractice will be able to recover every penny of their actual economic damages. It does limit non-economic damages, like pain and suffering. Punitive damages would be limited and so would attorneys' fees. But the legislation allows patients to collect for medical bills, funeral expenses and other costs. And States would still have the option of setting higher or lower caps than what is in the bill.

This really is one of those issues where the Senate cannot sit idly by. The House has passed a bill. It is time for the Senate to do the same.

We have a choice. We can vote with some trial lawyers who file endless lawsuits and watch our health care system spiral into decay, or we can put an end to this debate and protect our health care system by casting a vote for our patients and the medical professionals who so tirelessly care for them. I urge my colleagues to vote in favor of cloture. Let's pass the bill for our patients who need it most.

Mr. NELSON of Florida. Mr. President, while I recognize that medical malpractice insurance premiums have increased at an alarming rate in many States, I rise today in opposition of the Patients First Act of 2003, S. 11. This bill does not put patients first, and fails to address major parts of the problem.

Any legislation aimed at reducing premiums for medical malpractice insurance must include reforms to the industry, and should be done by experts at the State level. Insurance regulation and tort law are traditional State issues.

The Senate is moving forward on this bill even though it has not been vetted through the appropriate committees. To date, there have been no hearings in Judiciary or a markup of S. 11.

In addition to foregoing the appropriate legislative process, I am also concerned that this proposal, as introduced, fails to do what it promises to do—ensure patients' access to doctors and decrease malpractice insurance rates for physicians.

As a former insurance commissioner, I learned first hand that insurance is best regulated at the State level. That level or regulatory oversight over the industry ensures that residents of a particular State are all afforded the

same protections and guarantees. A one-size-fits-all approach like S. 11 is not the best policy.

In addition, one of the cornerstones of the McCarran-Ferguson Act in 1945 was that in exchange for exemption to Federal antitrust laws, the regulation of the business of insurance would be carried out at the State level.

In the late 1980s and early 1990s insurers flocked to the medical malpractice insurance market because of increased cashflow and rising interest rates. These insurers pursued as much business as they could and as competition increased, prices dropped. This competition created an environment of underpricing the actual risks of the insurance.

As the economy worsened and investment income dried up, insurance companies increased premiums to recover investment as well as insurance losses. The Senate should not ignore the business practices of the insurance industry in the so-called ''medical malpractice crisis.''

In a recent report by the Institute of Medicine it was estimated that 98,000 people die each year due to preventable medical errors. That is 268 each day. Why then instead of solely focusing on the tort system are we not also addressing this issue? After all these errors are the reasons most people seek compensation.

The Senate's proposal fails to improve overall patient safety and the reporting of medical errors. Patients should have access to this information and be allowed to make informed decisions about their physicians.

Proponents of this legislation argue that by limiting the risk of insurance companies through caps on damages, that by protecting their interests, we will then lower medical malpractice insurance premiums and ensure access to health care providers. I do not believe this is accurate.

In the State of California, which already limits non-economic damages to $250,000, the average actual premium is $27,570, 8 percent higher than the average of all States that have no caps on non-economic damages. Clearly a cap did not keep these premiums from rising.

In Florida, as in the Nation, we have had some sad malpractice cases. If patients had access to information about their doctors then perhaps Willie King may not have had the wrong foot amputated in 1995.

Mr. King was admitted to University Community Hospital in Tampa, Florida, for the removal of his right foot. Imagine his surprise when he woke up to find that Dr. Rolando Sanchez had removed the left one instead. As it turns out 2 years earlier, Dr. Sanchez had settled a claim from a man who agreed to one type of hernia operation but instead had another, State records show.

Still, Mr. King—who was already collecting disability—still had to have his other foot removed and was unable to remain independent as he had been prior to the operation.

To cap damages, without regard to the extent of an injury is shortsighted and unfair. Caps just do not fix the problem. It is far more complicated than that.

In California, which is often touted as the example of how effective caps are, medical malpractice premiums increased by 190 percent during the first 12 years following enactment of the $250,000 MICRA cap. It was not until California's Proposition 103 was enacted that malpractice premiums were lowered and stabilized.

In Florida, where this issue is being hotly debated, insurers have made no guarantees to lower their premiums. Even after the Governor sought to get that assurance by further protecting them from lawsuits, the industry still refused to guarantee any sort of decrease in rates.

In addition to caps not reducing malpractice insurance premiums, they are also unfair. Take the case of Janet Pandrea from Coconut Creek.

In January 2002, at the age of 65, Mrs. Pandrea was diagnosed with cancer in her chest. Janet had been married for 46 years, she had been a healthy and active mother and grandmother. She was told to begin chemotherapy treatments, and died from complications after only 2 months.

The doctors did not tell her family why she died so suddenly, so they requested an autopsy. The autopsy showed that she never had cancer. Janet should never have been subjected to the chemotherapy that killed her.

The economic damages for a 65-year-old woman would cover only her medical bills. Her family would not be able to recover more than $250,000 for the loss of their wife, mother, and grandmother.

Mr. President, I rise in opposition to this legislation, not because I do not think that there is a serious problem with the medical malpractice insurance in this country, but I do not support this bill because it will not reduce premiums or enhance a physician's ability to provide care.

Mr. FEINGOLD. Mr. President, I recognize that we have a problem in this country with malpractice insurance premiums. I would like very much for Congress to address that problem. It is my judgment that S. 11 will not solve that problem, and it will harm innocent Americans who have suffered horrible and permanent injury at the hands of negligent medical practitioners. I will therefore vote no on the cloture motion.

Mr. President, there are many provisions of S. 11 with which I have serious disagreement. Let me just mention a few. In a provision called the fair share rule, the bill eliminates joint and several liability in medical malpractice cases. What that means is that if one responsible defendant is insolvent and has no insurance coverage, the victim of malpractice ends up without a full recovery of his or her damages. This is not fair. Most State laws provide that the risk of one defendant being insolvent or judgment-proof is borne by the other responsible defendants. There is no reason to change this longstanding principle of law.

Another problem with this bill is the new statute of limitations that the bill imposes on medical malpractice claims. Shorter statutes of limitation don't discourage frivolous claims, they encourage them. Lawyers facing a looming statute of limitations have to file lawsuits to protect their clients' options. Imposing a statute of limitations of as little as 1 year, as this bill does, does not allow adequate time to investigate a claim and determine if it is really worth filing.

I am also concerned that this bill has been drafted to protect not only doctors but medical device manufacturers and drug companies from liability claims. There is no evidence that suits against these defendants are contributing to rising medical malpractice insurance premiums. So this bill is not just a medical malpractice bill, it is a product liability bill.

But the most ill-advised provision in this bill is the cap on noneconomic damages of $250,000. At the one hearing held on this issue this year, the Judiciary and HELP Committees heard from Linda McDougal, a 46-year-old Navy veteran from Woodville, WI. Last year, Ms. McDougal underwent a double mastectomy after her biopsy results were switched with those of another patient. She didn't have cancer, she never had cancer. We can be thankful for that. But her life, and her family's life, will never be the same.

I hope everyone in the Senate will read Linda McDougal's testimony and learn about her experience. It is a powerful cautionary tale for those of us who are charged with voting on legislation concerning medical malpractice.

I find it hard to believe that anyone in this body can look Linda McDougal or any of the thousands of victims of catastrophic medical malpractice in the eye and say, ''$250,000 is all your pain and suffering are worth.'' Would any of us be able to tell our mothers or our wives or our daughters that their damages should be limited to $250,000 if they were the victims of the unspeakable pain and lifelong sadness that Linda McDougal will endure? Remember, Linda McDougal didn't have extraordinary medical bills or lost wages. Her damages are noneconomic. But her loss is real, it is permanent, it is unfathomable.

There is no question that we have a problem in this country over the cost of malpractice insurance. But the solution cannot be to penalize innocent victims like Linda McDougal, to prolong and extend this suffering by denying them adequate compensation.

We have virtually no evidence that caps on economic damages will actually lower insurance rates. Indeed, as Senator DURBIN noted in this debate, in

States that have caps on noneconomic damages, insurance premiums increased 48 percent from 1991 to 2002. But in States without caps, the insurance has been only 36 percent. So the case has just not been made that the caps in this bill will lower malpractice premiums. But more importantly, the case has not been made, and in my view cannot be made, that these caps are fair to victims like Linda McDougal.

There very well may be solutions that we in the Senate can develop to addrsess the cost of medical malpractice insurance in this country and the effect on patient care that rising premiums are causing. And there certainly are things we can do to address the disturbing problem of medical error in this country. The Institute of Medicine estimates that between 44,000 and 98,000 adverse medical events occur in hospitals every year.

If we want to reduce malpractice insurance premiums we must address these problems as well as looking closely at the business practices of the insurance companies. What we shouldn't do is limit the recovery of victims of horrible injury to an arbitrarily low sum.

This is obviously a complicated issue. This is the kind of issue that needs to be explored in depth in our committees so that a consensus can emerge. It is not the kind of issue that should be brought directly to the floor with such a great gulf between supporters and opponents. So I will vote ''no'' on cloture today, and I hope that the bill will go through the HELP Committee and/or the Judiciary Committee before we begin floor consideration of this important topic.

Mr. ALEXANDER. Mr. President, I come to the floor today to express my concern with the rising cost of medical liability insurance. I have heard from doctors and hospitals from one end of Tennessee to the other, all concerned with the sky rocketing cost of medical liability premiums. The increasing cost of medical liability insurance is creating a patient access crisis because doctors are leaving the practice of medicine.

At Hardin County General Hospital in Savannah, TN, both an orthopedist and an OB/GYN have left the hospital to go practice in other States because their insurance premiums were too high. High medical liability insurance is one more reason it is difficult to recruit specialists to rural areas.

At the University of Tennessee Health Sciences Center in Memphis, young people just entering the profession are being sued at a horrifying rate, discouraging them from continuing with the practice of medicine. Since 1990, one third of all residents in training have been served with a malpractice suit. Some specialties, such as OB/GYN and Neurosurgery, are being sued so frequently that students are not pursuing these specialties. This will soon cause a crisis in access to specialty care.

Tennessee hospitals experienced liability insurance premium increases of 75 percent to 400 percent last year. Baptist Memorial Health Care Corporation in Memphis, TN, had liability coverage of $2.7 million for 2002. For 2003, Baptist was quoted $8.3 million for liability coverage. This is an increase of $6 million in 1 year.

In 2002, the medical liability premium for an OB/GYN in Tennessee was $62,000. In 2003, the premium more than doubled to $160,000, and in 2004, it is estimated to more than double again to $285,000. This sort of increased cost is not sustainable. I am worried about who will deliver babies in my State. Other physicians are also feeling the squeeze. In 2002, the medical liability premium for a family practice physician was $44,000. In 2003, the premium increased to $117,000. Again, this sort of increased cost is not sustainable.

I believe that S. 11, the Patients First Act, is a great step in the right direction. The Patients First Act will reduce the effects of excessive liability costs by placing a sensible cap on noneconomic damages. The bill will still allow unlimited economic damages. If a patient is injured, they will have unlimited access to economic damages to pay for their recovery.

S. 11 will help stem the tide of rising medical liability premiums before patients lose access to medical care. I hope we reach cloture on the motion to proceed so that we can consider this very important legislation.

Mrs. MURRAY. Mr. President, there is a health care crisis in this country. Millions of Americans have no health insurance. Insurance companies continue to increase their premiums and doctors and patients are the ones who are paying.

In my home State of Washington, our health care system is in trouble. Some doctors are closing their practices, retiring early, or moving to other States. We have a shortage of nurses and other medical professionals. And one in nine Washington State residents do not even have health insurance.

Doctors in my State are seeing their malpractice insurance premiums increase by 100 and even 200 percent. At the same time, Medicare, Medicaid, and private insurance companies are reducing their reimbursement amounts. These multiple forces have created a perfect storm for doctors and patients.

In some specialties, like OB GYN, the malpractice insurance market is out of control. Insurance companies keep jacking up their premiums. These insurance company increases are simply not sustainable.

I strongly support legislation to correct these problems and to get skyrocketing insurance premiums back under control. We must help to stabilize our health care system by making sure that doctors are not forced out of business by rising insurance rates.

Unfortunately, the proposal before us is not the answer. There are major flaws with both the process and the substance of the proposal.

First, this bill would preempt State patient rights laws, and give more protection to HMOs and insurance companies at the expense of real people who are hurt.

Second, caps on noneconomic malpractice awards have not been effective at reducing insurance rates in States where they have been tried; and

Third, this bill is being used as a political club, instead of a real attempt to find a meaningful solution.

I am deeply disappointed that some Senators would rather play political games with our Nation's health care instead of trying to find a real solution.

One problem is that this proposal preempts State patients' right laws and protects HMOs and insurance companies rather than doctors and patients.

For the past 3 days Senators have talked about the impact of the medical malpractice crisis on doctors and patients across the country. And those who have been following this debate might assume that this legislation would only provide protection to doctors and hospitals. But this bill goes much further.

S. 11 also extends additional protections to nursing homes, HMOs, drug and medical device manufacturers.

Not only does S. 11 provide liability relief for these groups. In some cases it preempts State patient bills of rights laws and protections—protections that patients and doctors have fought hard to achieve.

Since 1997, I have worked to secure passage of a Federal Patient's Bill of rights to protect patients and to ensure that insurance companies make decisions based on sound medicine, not profit margins.

Working with doctors and hospitals we have twice tried in the U.S. Senate to enact a comprehensive Patients' Bill of Rights, but were defeated by special interests. The foundation of any patients' bill of rights legislation is holding HMOs accountable for making medical decisions. Unfortunately, S. 11 would take us in the opposite direction.

Many States, like my home State of Washington, did not wait for Federal action to protect patients and doctors. In March 2000, Washington state enacted a strong Patients' Bill of Rights law that held HMOs and insurance companies accountable and liable for harm caused when insurance plans denied or delayed access to recommended health care services.

The State law also provides a 3-year statute of limitation from the completion of the independent external review process. But, S. 11 would preempt this law. It would impose a Federal noneconomic limitation of $250,000 and would reduce the state of limitation to 1 year.

This is the wrong approach. The Senate leadership is proposing to substitute the judgment of the Federal

Government in Washington, DC for the judgment of the State legislature in Washing State. As insurance has historically been a State, not a Federal, issue, Congress must be careful about this Federal expansion.

The second problem with this proposal is that caps on malpractice awards do not necessarily reduce insurance rates.

I have heard my colleagues refer to California's experience as a model for Federal action, since California has enacted caps. However, recent data shows that average actual premium rates in California are actually higher than States that have no such caps, according to the Medical Liability Monitor.

Across the country, States that have imposed caps on noneconomic damages, are now seeing similar increases in insurance premiums as those States without caps. If the goal is to help insurance companies with their profit margins, then this bill might help. But if the goal is to help doctors afford to pay for insurance, then this bill will not help.

Even if caps did force insurance companies to reduce their rates, are caps fair to patients who were harmed?

We know that as many as 90,000 people a year die from medical errors. Not all of these errors constitute malpractice, but limiting fair and just compensation for even a fraction of these individuals and their families is a major change in our judicial system—and a huge price to pay in the name of reform.

If this legislation had gone through the appropriate committee process, Congress might have gotten some answers to these questions, and the legislation before us might have been helped doctors and patients.

Unfortunately, this bill was brought forward for purely political reasons. This is the greatest tragedy of all for doctors and patients. Some colleagues would use this bill to help their follow partisans rather than the physicians who need it.

This bill did not go through the standard committee process. There were no public hearings to get expert testimony to help shape the legislation. There was no committee markup for the legislation for Senators to weigh in on the issue.

In fact, there are a number of reports indicating that malpractice claims are not necessarily responsible for higher insurance premiums. These reports suggest that it is not the growing number of cases or even the size awards that are driving premium increases, but rather the decline in the value of investments for insurance companies.

Without the opportunity to fully understand the problem—with hearings and markups-Congress cannot develop a real, workable solution.

Instead, some Republicans are exploiting this legislation, according to the Washington Post, ''as an issue for next year's election.''

In fact, even Republicans have acknowledged that this is not a serious proposal, but instead is a ''political document.''

A Republican Senator was quoted in the New York Times this morning discussing this bill. He said the Senate leadership is ''bringing this bill up to get most of my Democratic friends to vote against it, a handful of Republicans to vote against it, and they're going to take it on the campaign trail.''

This is outrageous. Patients are losing their doctors. Doctors are going out of business. And rather than address a critical problem, the Senate leadership is playing political games.

So what is the answer?

Clearly, the medical malpractice insurance rates doctors are facing are untenable. They are a real problem for doctors, for patients, and for our entire health care community. Every week, I hear from doctors throughout Washington State about the challenges that soaring malpractice insurance premiums are causing.

That is why I support the Durbin-Graham proposal to provide immediate relief to doctors.

When insurance markets are dysfunctional—as they certainly are in malpractice—the Federal Government has a tradition of providing needed support. We did that with flood insurance a few years ago, and we did it again with terrorism insurance in 2001. When an insurance market fails, there is certainly precedent for Federal corrective actions.

If we can provide relief for terrorism and flood insurance, we should be able to provide relief for high-risk, critical practices like trauma and OB GYN services.

While we need to examine every way that we might address this crisis, as I look at this idea, I am also realistic. Noneconomic damages are not the only factor impacting insurance premiums. It is not clear to me that capping just noneconomic damages will really solve the problem. In addition, malpractice insurance is traditionally a state issue. If the Federal Government is going to insert itself so dramatically in a State matter, we need to be sure this approach is going to work.

There are still too many unanswered questions to proceed with this bill. We know that the status quo is not sustainable, but we need to recognize that this is a complicated problem and there can be no quick fixes.

It is time to stop playing politics and start working together to find solutions and heal our ailing system.

Mr. EDWARDS. Mr. President, I speak out for ordinary people.

We all recognize that we need to do something about the medical malpractice problem in this country. Premium rates are too high and, in some cases, drive away the medical care these people need. I have spoken out loud and clear about this issue and recently published an op-ed piece in the Washington Post calling for common sense provisions included in our bill, which I am proud to cosponsor.

The PRESIDING OFFICER. I ask unanimous consent to have that printed following my remarks. Without objection, it is so ordered.

Mr. EDWARDS. We have to do something about this problem. But the answer is not to slap down the victims, which is exactly what the Republican plan will do.

This is nothing new. Time and again, we have seen this administration and the Republican majority stand up for corporate interests with little regard for the people who will be harmed by this rush to protect big business. This time it is the malpractice insurance companies who are being protected at the expense of ordinary people.

S. 11 comes right off the insurance companies' wish list. It might as well have been written by the insurance companies. It drastically limits the compensation these companies have to pay children and parents who have been blinded, paralyzed or otherwise severely injured. The victims who make the least money will suffer the most under this plan. The harm to the kinds of families I represented as a lawyer for nearly 20 years will be enormous. We need to stand up for these people.

We need to fight for people like little Tristan Lewis, who lives in my State of North Carolina. Tristan was born 3 months premature, but her early signs were good. She was breathing on her own and had scored eight out of 10 on the APGAR tests, used to rate newborn babies. Unfortunately, nurses attempted to warm Tristan with heated IV saline bags that burned the tiny girl. They heated the bags in a microwave without doctor approval; they failed to check the temperature of the bags, and then left Tristan on the boiling hot bags for over 10 minutes, even though she was crying loudly.

Black burns covered much of Tristan's back. The third-degree burns had penetrated her skin. Nine days after she was born, Tristan was sent to another hospital for a surgery, commonly needed by premature babies, to close a blood vessel near her heart. The doctors there discovered a dangerous infection. Tristan had meningitis, which likely entered her little body through the burn wounds. Tristan spent most of her first year in the hospital and she had more than a dozen surgeries.

The pain and complications of the burns increased Tristan's blood pressure and caused or aggravated bleeding inside her brain. The bacteria that led to her meningitis probably entered her body through the burn wounds, where the skin's ability to serve as a barrier against infection had been weakened.

Tristan, who is now 7, is legally blind. Her eyes bring in images, but her brain cannot process them. She is fed through a tube. Antiseizure medications make her groggy, so she spends most days sleeping. Tristan has no purposeful movement and cannot communicate.

The hospital's insurance company agreed to settle the case. Now Tristan's mother knows that her little girl will always have what she needs.

But if the administration had its way, the hospital would have been less likely to settle the case and Tristan would have been limited to $250,000 for her ''noneconomic'' suffering. That is just not right. It is wrong to try to protect the profits of big insurance companies at the expense of victims like little Tristan.

But every time we point out these inequities, we are shouted down with cries of ''class warfare!'' Well, the American people need to hear the truth. We are engaging in class warfare. What we have here is a fight for fairness.

The Republican plan is just plain, flat out unfair. And it won't work. It penalizes the worst injured people but it doesn't do a thing to solve the problem. It doesn't do anything to punish the bad lawyers while rewarding the good. It doesn't do anything to make doctors accountable for bad behavior. All this plan does is save insurance companies money by slamming the courthouse door in the face of innocent victims who have nowhere else to turn. But it doesn't require them to pass along one cent of this savings to doctors. So victims lose, doctors get nothing, and the insurance companies get richer. How can anyone claim that is fair?

Our plan is fair and it will work. It will work because it cracks down on price gouging by the insurance industry and takes aggressive action against lawyers who bring frivolous lawsuits that don't belong in court.

We have got to reform the insurance industry, something the Republican plan completely sidesteps. Today insurance companies use slow and burdensome processes to discourage both doctors and patients from filing legitimate claims. Worse still, these companies can fix prices and divvy up the country in order to drive up their profits. Even when companies don't explicitly collude, they set their rates based on a trade-group loss calculation that they know other companies will follow. In any other industry, this kind of conduct would be subject to scrutiny under the antitrust laws. But an obscure 1945 law gives insurance companies a broad antitrust exemption. Because of the insurance lobby's influence, Congress has even blocked the Federal Trade Commission from investigating insurance company rip-offs. These special privileges have go to go and our plan does just that.

Next, we need to prevent and punish frivolous lawsuits. The vast majority of lawyers are responsible advocates for their clients, but the few who aren't hurt the real victims, make a bad name for the good lawyers and clog up our courts. But for all his talk about frivolous lawsuits, President Bush does nothing to address them. He has got it backward—instead of cracking down on irresponsible behavior and baseless cases, he is targeting serious victims who win in court and are believed by juries.

Our plan requires that before a lawyer can bring a medical malpractice case to court, he or she must file an affidavit from a qualified health specialist verifying that real malpractice has occurred. Lawyers who file frivolous cases will face tough, mandatory sanctions. Lawyers who file three frivolous cases will be punished severely—in other words, three strikes and they are out.

And, while it is important to clamp down on frivolous lawsuits, we also must do everything we can to prevent malpractice in the first place. That is why our plan includes measures that will help patients avoid doctors with bad track records.

And, finally, our plan enhances patient access to quality health care by easing the burdens imposed on doctors by out-of-control insurance companies. First, it repeals the special interest antitrust exemption that allows insurance companies to collude and jack up premium rates with impunity. Second, it provides a tax credit for malpractice premiums paid, based upon the nature of risk in their areas of practice. And, third, our plan will help stem the tide of health care providers being driven out of certain geographic areas by out-of-control insurance rates by, among other things, providing grants and tax credits to areas experiencing shortages.

Our plan is fair, it is reasonable, and it will work. The Republican plan is not only mean-spirited, but it won't do a thing to solve the problem it is supposed to address. Their plan doesn't do a thing but build more wealth for big insurance companies on the backs of ordinary people who have already suffered too much. And I won't stand by and let that happen. None of us should. That is why I urge all of my colleagues to stand up for what is right and fight for fairness by voting no on S. 11.

[From the Washington Post, May 20, 2003]

LET'S KEEP DOCTORS IN BUSINESS

(By John Edwards)

The rising cost of malpractice insurance for doctors is getting in the way of good health care. In rural areas, some specialists can no longer afford to practice, and patients can't get the care they need. We need to fix this problem now, and we need to fix it in a way that is consistent with the doctors' own Hippocratic Oath: First, do no harm.

Unfortunately, President Bush's proposed prescription comes straight off the insurance companies' wish list: a sharp limit on the compensation these companies have to pay children and parents who have been blinded, paralyzed or otherwise severely injured. The victims who make the least money will suffer the most under this plan. The harm to the kinds of families I represented as a lawyer for nearly 20 years will be enormous.

What the president's proposal won't do is work. Insurance premiums have spiked recently because of insurance companies' losses on their investments, not their losses to victims. In fact, about half the states already have some limits on victim compensation, yet premiums in states with caps average about the same as premiums in states without caps. California finally controlled rates not by attacking victims—that didn't work—but by reforming the insurance industry and rolling back premium increases.

We need a real solution that frees doctors from crippling insurance costs—without preventing the most badly injured victims from receiving the compensation they deserve.

That real solution has three elements. Most important, we need to crack down on price gouging by the industry. We also need aggressive action against frivolous lawsuits that don't belong in court—not against the serious lawsuits that bring help to the most badly injured. And finally, we need to reduce the number of medical errors, many made by a very small fraction of the medical profession.

The most critical step is reforming the insurance industry. Today insurance companies use slow and burdensome processes to discourage both doctors and patients from filing legitimate claims. Worse still, these companies can fix prices and divvy up the country in order to drive up their profits. Even when companies don't explicitly collude, they set their rates based on a trade-group loss calculation that they know other companies will follow. In any other industry, this kind of conduct would be subject to scrutiny under the antitrust laws. But an obscure 1945 law gives insurance companies a broad antitrust exemption. Because of the insurance lobby's influence, Congress has even blocked the Federal Trade Commission from investigating insurance company rip-offs. These special privileges must go.

Next, we need to prevent and punish frivolous lawsuits. Most lawyers are responsible advocates for their clients, but the few who aren't hurt the real victims, undercutting the credibility of the legal system and clogging our courts. For all his talk about frivolous lawsuits, President Bush does nothing to address them. He's got it backward—instead of cracking down on irresponsible behavior and baseless cases, he's targeting serious victims who win in court and are believed by juries.

Before a lawyer can bring a medical malpractice case to court, we should require that he or she swear that an expert doctor is ready to testify that real malpractice has occurred. Lawyers who file frivolous cases should face tough, mandatory sanctions. Lawyers who file three frivolous cases should be forbidden to bring another suit for the next 10 years—in other words, three strikes and you're out.

Finally, we can reduce malpractice premiums by helping to reduce malpractice. The Institute of Medicine found that at least 44,000 people die from preventable medical errors every year. In medicine, as in law, a few people cause the most problems: Only 5 percent of doctors have paid malpractice claims more than once since 1990. This same 5 percent are responsible for more than half of all claims paid. One part of the problem is state medical boards whose discipline is as lax as state bar associations'. We need to provide resources and incentives for boards to adopt real standards on the ''three strikes'' model. At the same time, we need to encourage doctors to report more medical errors voluntarily, so we can learn more about systemic problems.

Together these measures will give relief to most doctors who are suffering under the

staggering weight of insurance premiums. But where premiums still cause shortages of medical care, Washington must provide a temporary subsidy so good doctors can continue their essential work. We shouldn't be padding insurers' profits and hurting people who have already suffered immensely, as the president proposes. But we should be protecting good doctors and the patients who depend on them.

The writer, a Democratic senator from North Carolina, is seeking his party's nomination for president.

Mr. JOHNSON. Mr. President, I support the bipartisan medical malpractice alternative legislation, a bill that is more comprehensive than the bill previously being considered on the floor, S. 11, called the Patient First Act. I want to thank Senators DURBIN and LINDSEY GRAHAM for their leadership and hard work on this issue, and I am proud to be a cosponsor of the alternative, which really begins to address the root of the medical malpractice premium problem, rather than just attempt a quick fix as does the approach found in Senator ENSIGN's legislation.

In South Dakota, we already have a cap on noneconomic damages at $500,000, which has been in effect since 1997. While some are claiming that caps are supposed to reduce premiums doctors pay, this issue is not that cut and dried. The Medical Liability Monitor found that in South Dakota, prior to 1997, medical malpractice premiums charged by some insurers were being maintained or on the decline, while for others rates were going up. And these rates varied across specialty. For example, in 1996 the premium rate went up for general surgery across two insurers, while one company increased premiums for internal medicine and OB/GYN and another insurer reduced rates for those exact same specialties. Since the implementation of caps in my State, rates initially declined, but in 2002 rates jumped as high as 20 percent over the previous year. This would indicate that caps are not the quick fix that Republicans would like you to believe is needed.

Generally, my feeling is that caps are really a State issue and that we should spend our time focusing on how to prevent the need for malpractice in the first place, through measures to reduce medical errors and improve patient safety. Beyond my overall view of this issue, I am disappointed that our Republican colleagues have taken the issue of medical malpractice, which touches the core of these important patient care issues, and are using it for politically motivated purposes. This legislation has not had any hearings in the Health, Education, Labor and Pensions or Judiciary Committee. It has not been given careful consideration in a bipartisan way prior to the majority leader bringing it to the floor. This is not the way we get things done in the Senate and this is one of the reasons why I cannot support S. 11.

I also cannot support S. 11 because it is crafted in such a way that has broad implications across the health care continuum. This bill's supporters will try and tell you that it is only about doctors' abilities to continue to provide care to patients. While I do recognize that this is of significant concern and support measures to bring down the cost of medical malpractice premiums, this bill goes far beyond that. S. 11 represents a broad, sweeping initiative that would apply not only to lawsuits against doctors, but to all health care lawsuits, thereby shielding HMOs, drug companies, nursing homes, hospitals, and medical device manufacturers who injure patients.

And what is equally disturbing is that this so-called fix is not even considered the solution by all doctors, some who have conceded that this legislation would not reduce their malpractice premiums for 3 or 4 years. This legislation also discriminates against the most vulnerable: the aged, children and low-income. By placing a cap on noneconomic damages, it says to those with lesser earning potential—''your lives mean less and a small pot of money for the rest of your life is enough, irrespective of how much of your quality of life has been taken from you.'' I cannot support this mindset and would prefer to approach this issue more comprehensively and without discriminatory practices.

As mentioned, we have learned that caps do not necessarily translate to lower premium rates. Studies have examined this issue and results are found on both sides, some finding that caps do reduce malpractice premiums, while others find the exact opposite. This says to me that we do not have the sound evidence needed to say that caps are the way to go. Because of this, we must be looking at other creative ways to address this issue that is forcing many doctors, especially those in high-risk specialties, to leave practice. That is why I support the Durbin/Graham alternative, which takes a critical look at the causes of high malpractice premiums and seeks to address them.

The Durbin/Graham alternative does provide some relief to doctors through tax credits for malpractice premium rates. It also provides a voluntary system to share medical error information through a database that is immune from legal discovery and will improve patient safety. It addresses issues related to frivolous lawsuits and provides some protection from punitive damages for health professionals participating in federally funded programs. This alternative finally addresses Federal antitrust exemptions enjoyed very broadly by insurance companies in an effort to diminish their opportunity to collude and set rates. These initiatives get at the root of the medical malpractice problem and are a step in the right direction. I urge my colleagues to vote against cloture on the motion to proceed to S. 11 and work together to embrace the Durbin/Graham alternative.

Mr. MCCAIN. Mr. President, Americans are fortunate to enjoy some of the best medical care available in the world. If we do not reform the current system, however, our good fortune will not last. Medical malpractice reform looms as one of the most critical factors negatively impacting our Nation's health care system. In the year 2000, doctors alone spent $6.3 billion on medical malpractice insurance coverage. That does not take into consideration coverage paid for by hospitals, nursing homes, and other groups.

Originally intended to provide patients with security by improving quality and providing fair and equitable compensation for valid claims, our Nation's medical malpractice system has only succeeded in adding billions of dollars a year to the cost of health care, while reducing patient access to physicians and treatment. The current system is broken.

Qualified doctors with years of valuable experience are leaving the medical field in droves. Some are opting for early retirement, while others are changing fields. Many physicians, particularly those in high-risk specialties, are moving to States that have implemented reforms or are opting to scale back their practices. Discouraged by the current system, many of today's medical students cite medical malpractice as a major factor in their choice of fields.

Rural areas have been hit particularly hard. In Arizona, our rural hospitals are struggling to keep qualified doctors. In our border region, where hospitals already struggle with the high cost of uncompensated care due to illegal immigrant populations, the Copper Queen Hospital in Bisbee has been without an obstetrician for over a year because of the high cost of medical malpractice insurance. Because of this void, pregnant women in southeastern Arizona have had to drive extremely long distances to reach the nearest hospital with an obstetrician.

Earlier this year, the daughter of a hospital board member gave birth on the side of the highway as she and her husband drove over a mountain pass to the nearest hospital in Sierra Vista. Fortunately for Bisbee and the surrounding areas, a local community health center, which is shielded from high liability costs by Federal law, recently received a Federal grant to develop a birthing facility. Now, the community will be able to retain obstetricians and pregnant women will be assured access to vital prenatal care.

Unfortunately, patients suffer most from the failures of our current system. Not only are patients losing access to qualified doctors, they are also losing health care coverage, substantially contributing to the rising numbers of uninsured Americans, most recently estimated at over 41 million. A recent study by PricewaterhouseCoopers found that 7 percent of the rise in health care costs are due to litigation and risk management. Those skyrocketing health care costs are

passed from health insurance companies to employers, making it more difficult for American businesses to provide coverage to employees. Businesses today pass a larger share of the cost burden on to employees than ever before, and many, particularly small businesses, have made the difficult decision to drop employee coverage entirely.

This morning, the Senate voted on the motion to invoke cloture on, S. 11, the Patients First Act of 2003. I voted to invoke cloture on this bill, not because I believe it is the perfect solution to this crisis, but because I believe that our Nation's medical malpractice system is broken and we must begin debating viable solutions. I have long supported tort reform generally, and medical malpractice in particular, because the current system is unfair and inefficient.

Unfortunately, the medical malpractice debate has been polarized by two powerful special interest groups, preventing necessary compromise and real reform. On one side, the trial lawyers, fearing the loss of enormous jury awards, have fought tooth and nail against any cap on non-economic damages. Similarly, the insurance industry and other medical special interest groups have been equally unwilling to compromise on the dollar amount of these caps. As long as this body remains polarized in between these two competing interests, we will not have real reform and the American people will suffer.

Under the bill considered today, patients would be able to recover the full cost of medical expenses coupled with past and future wage losses through unlimited economic damages. To address exorbitant jury awards for non-economic damages, this bill, caps non-economic damages at $250,000, while allowing states the flexibility to maintain their own caps. A federally imposed ceiling would be a tremendous help to States like Arizona that require State constitutional amendments in order to implement medical liability reform.

The reality is, we know that caps on damages do successfully reduce the cost of medical malpractice insurance. Malpractice rates nationally, have risen three times faster than in California, where caps have been in place for twenty years. Similarly, a recent study by the Agency for Healthcare Research and Quality found that states that enacted limits on non-economic damages have 12 percent more doctors per capita than states without caps.

Although I support reform efforts, I am concerned that $250,000 may not be a realistic amount at which to cap non-economic damages. I recognize that although the state-imposed cap of $250,000 has functioned well in California, there are also certain medical errors which are difficult, if not impossible to put a price tag on.

Additionally, I believe any medical malpractice reform legislation must be coupled with meaningful measures to address the alarming numbers of medical errors in this country. A 1999 study by the Institute of Medicine found that upwards of 98,000 people a year die of medical errors. Congress must address this escalating problem, particularly in the context of the current debate. Bipartisan legislation establishing medical error reporting requirements passed the House and will hopefully pass the Senate later this year, however much more can and should be done on this issue.

I believe a majority of my colleagues in the Senate agree that there does exist a serious problem in our Nation, that patients and doctors are suffering as a result, and something must be done. When the Senate voted this morning to invoke cloture, this bill did not have the votes necessary to continue debate. In fact, it did not even garner a majority vote. If we are truly committed to addressing this important issue, we must put special interests and partisan politics aside and work together to craft an equitable compromise.

Mr. LEAHY. Mr. President, I am disappointed that the majority appears to be playing politics with the medical malpractice insurance debate. This is a complex issue, and the bill before us would encroach on the rights of every state and would take away the legal rights of the American people. Great care is in order as Congress considers such steps. But instead of introducing a bipartisan bill and sending it through the committee process to reach consensus, the majority is rushing a partisan bill directly to the Senate floor. That is highly unfortunate, because our health care system is in crisis. We have heard that statement so often that it has begun to lose the force of its truth, but that truth is one we must confront, and the crisis is one we must abate.

Dramatically rising medical malpractice insurance rates are forcing some doctors to abandon their practices or to cross state lines to find more affordable situations. Patients who need care in high-risk specialties—like obstetrics—and patients in areas already underserved by health care providers—like many rural communities—are too often left without adequate care.

We are the richest and most powerful nation on earth. We should be able to ensure access to quality health care to all our citizens and to assure the medical profession that its members will not be driven from their calling by the manipulations of the malpractice insurance industry.

The debate about the causes of this latest insurance crisis and the possible cures grows shrill. I had hoped for a calmer and more constructive discussion within the Senate Judiciary Committee and on the Senate floor. My principal concerns are straightforward: That we ensure that our nation's physicians are able to provide the high quality of medical care that our citizens deserve and for which the United States is world-renowned, and that in those instances where a doctor does harm a patient, that patient should be able to seek appropriate redress through our court system.

To be sure, different States have different experiences with medical malpractice insurance, and insurance remains largely a State-regulated industry. Each State should endeavor to develop its own appropriate solution to rising medical malpractice insurance rates because each State has its own unique problems. Some States—such as my own, Vermont—while experiencing problems, do not face as great a crisis as others. Vermont's legislature is considering legislation to find the right answers for our State, and the same process is underway now in other States.

In contrast, in States such as West Virginia, Pennsylvania, Florida, and New Jersey, doctors are walking out of work in protest over the exorbitant rates being extracted from them by their insurance carriers.

Thoughtful solutions to the situation will require creative thinking, a genuine effort to rectify the problem, and bipartisan consensus to achieve real reform. Unfortunately, these are not the characteristics of the bill before us. Indeed, S. 11 is a partisan bill that was introduced only a few days ago without any committee consideration. Ignoring the central truth of this crisis—that it is a problem in the insurance industry, not the tort system—the majority has proposed a plan that would cap non-economic damages across the nation at $250,000 in medical malpractice cases. The notion that such a one-size-fits-all scheme is the answer runs counter to the factual experience of the states.

Most importantly, the majority's proposal does nothing to protect true victims of medical malpractice and nothing to prevent malpractice in the first place. A cap of $250,000 would arbitrarily limit compensation that the most seriously injured patients are able to receive. The medical malpractice reform debate too often ignores the men, women and children whose lives have been dramatically—and often permanently—altered by medical errors. The experience of Linda McDougall, who testified a few months ago before the Senate Judiciary Committee, is just one tragic example of such an error. Mrs. McDougal is recovering from an unnecessary double mastectomy, and her testimony reminded us all of the real-life consideration of these issues. Arbitrarily limiting injured patients' remedies under the law without addressing the system-wide medical errors that result in patient harm and death is a recipe for failure.

The majority's proposal would prevent individuals like Linda McDougall—even if they have successfully made their cases in courts of law—from receiving adequate compensation. We

are fortunate in this nation to have many highly qualified medical professionals, and this is especially true in my own home state of Vermont. Unfortunately, good doctors sometimes make errors. It is also unfortunate that some not-so-good doctors manage to make their way into the health care system as well.

While we must do all that we can to support the men and women who commit their professional lives to caring for others, we must also ensure that patients have access to adequate remedies should they receive inadequate care.

High malpractice insurance premiums are not the direct result of malpractice lawsuit verdicts. They are the result of investment decisions by the insurance companies and of business models geared toward ever-increasing profits as well as the cyclical hardening of the liability insurance market. In cases where an insurer has made a bad investment, or has experienced the same disappointments from Wall Street that so many Americans have, it should not be able to recoup its losses from the doctors it insures.

The insurance company should have to bear the burdens of its own business model, just as the other businesses in the economy do. And a nationwide arbitrary capping of awards available to victims—as the majority has proposed here this week—should not be the first and only solution turned to in a tough medical malpractice insurance market. The problem at hand deserves thoughtful and collaborative consideration in committee to achieve a sensible solution that is fair to patients and that supports our medical professionals in their ability to practice quality health care.

One aspect of the insurance industry's business model requires a legislative correction—its blanket exemption from federal antitrust laws. Insurers have for years—too many years—enjoyed a benefit that is novel in our marketplace. The McCarran-Ferguson Act permits insurance companies to operate without being subject to most of the federal antitrust laws, and our nation's physicians and their patients have been the worse off for it.

Using their exemption, insurers can collude to set rates, resulting in higher premiums than true competition would achieve—and because of this exemption, enforcement officials cannot investigate any such collusion. If Congress is serious about controlling rising premiums, we must objectively limit this broad exemption in the McCarran-Ferguson Act.

In February, I introduced the ''Medical Malpractice Insurance Antitrust Act of 2003,'' S. 352. I want to thank Senators REID, KENNEDY, DURBIN, EDWARDS, ROCKEFELLER, FEINGOLD, BOXER and CORZINE for cosponsoring this essential and straightforward legislation. Our bill modifies the McCarran-Ferguson Act with respect to medical malpractice insurance, and only for the most pernicious antitrust offenses: price fixing, bid rigging, and market allocations. Only those anticompetitive practices that most certainly will affect premiums are addressed.

I am hard-pressed to imagine that anyone could object to a prohibition on insurance carriers' fixing prices or dividing territories. After all, the rest of our nation's industries manage either to abide by these laws or pay the consequences.

Many State insurance commissioners police the industry well within the power they are accorded in their own laws, and some states have antitrust laws of their own that could cover some anticompetitive activities in the insurance industry. Our legislation is a scalpel, not a saw. It would not affect regulation of insurance by state insurance commissioners and other state regulators. But there is no reason to continue, unexamined, a system in which the Federal enforcers are precluded from prosecuting the most harmful antitrust violations just because they are committed by insurance companies.

Our legislation is a carefully tailored solution to one critical aspect of the problem of excessive medical malpractice insurance rates. I had hoped for quick action by the Judiciary Committee and then by the full Senate to ensure that this important step on the road to genuine reform is taken before too much more damage is done to the physicians of this country and to the patients they care for.

But our legislation to narrow this loophole in the nation's anti-trust laws for medical malpractice insurers has languished for months in the Senate Judiciary Committee. Instead of conducting hearings and a markup on our bill, the majority now rushes a ''tort reform'' agenda item to the floor without any committee consideration.

I want to comment for a moment on why committee consideration is so important to building the consensus needed to enact serious legislation to address the serious issue of rising medical malpractice premiums. During the last Congress, some of my colleagues on the other side of the aisle complained about the lack of committee consideration of prescription drug legislation. This year, we had committee consideration of a bipartisan bill and the Senate passed prescription drug legislation.

Last year, during that debate, Senator LOTT said: ''If we bring these important issues to the Senate floor without them having been worked through committee, it is a prescription for a real problem . . . .''

Last year on the Senate floor, Senator NICKLES declared: ''What happened to the committee process? Shouldn't every member of the Finance Committee have a chance to say, I think we can do a better job? Maybe we can do it more efficiently or better. No, we bypass the committee and take it directly to the floor.''

And Senator SNOWE, one of the Senate's most thoughtful members, wisely pointed out: ''I think each of us here knows that without a markup in the committee we are creating a predetermined train wreck. We are heading for a train wreck because we are creating a process designed for failure. It is designed for politics. It is not designed for creating a solution to a serious problem.''

If Congress is serious about controlling rising medical malpractice insurance premiums, then we must limit the broad exemption to federal antitrust law and promote real competition in the insurance industry, as well as attack this problem at its core by reducing medical errors across our health care system. Unfortunately, the partisan bill before us is not designed for creating a solution to a serious problem. Instead, it is designed purely for politics.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Four minutes.

Mr. DURBIN. On the other side?

The PRESIDING OFFICER. They have 10 minutes.

Mr. DURBIN. I am happy to yield to the other side unless they are going to use the entire 10 minutes and then I will use my 4.

Mr. MCCONNELL. I ask the Senator from Illinois, what is the time situation?

Mr. DURBIN. Ten minutes on his side, 4 minutes on my side.

Mr. MCCONNELL. And the suggestion of the Senator was?

Mr. DURBIN. If the Senator is going to divide it and would like to have one speaker and then I will speak and he can close.

Mr. MCCONNELL. I was going to split the time with Senator ENSIGN and use the last 5 minutes. Does the Senator from Illinois want to be the last speaker?

Mr. DURBIN. I defer to the Senator. I believe that as proponents of the bill, the Senator should have the last word. If the Senator is going to divide his time, I would just suggest that one of his speakers go first, I speak, and then the Senator be the last speaker.

Mr. MCCONNELL. Let me ask if my friend from Nevada is ready to proceed?

He will be ready momentarily.

Mr. DURBIN. I will use my 4 minutes.

First, I thank my colleagues on both sides of the aisle. Although we disagree on the approach, and I certainly do not support S. 11, I encourage all of my colleagues in the Senate to join me in stopping this bill from moving forward. This is too important to come to the floor without a committee hearing, without deliberation. It is unfair to address the medical malpractice premium crisis in America by simply saying that victims of malpractice shall be limited in what they can receive from a court.

It is unfair for us to put ourselves in the place of a jury. If we are going to deal with the malpractice insurance crisis that faces us, let us do it in an honest and complete fashion.

Early in this debate, I told the story about David from the small town in downstate Illinois. At 6 years of age he went in with a high fever and because of medical negligence and medical errors, this 6-year-old boy became a quadriplegic. He is unable to communicate with others. He breaths through a tracheotomy stoma and is fed through a gastrointestinal tube. They believe he understands what is being said, but he is unresponsive. He is now 17 years of age. His mother has quit her job at a local college to be with him full time.

The decision of this bill is that in cases such as David's what they are going to go through the rest of their lives, David and his family, is worth no more than $250,000 in pain and suffering.

This verdict by this jury in the Senate is unfair. I say to doctors across America who have a genuinely serious problem that needs to be addressed, the love and compassion you give to your patients, the commitment you made to your patients is inconsistent with the message of this bill. I believe doctors in my home State and those I have met with in other places are some of the finest people with whom I have ever worked. I genuinely want to work with them to deal with malpractice premiums that are much too high, by reducing the incidence of malpractice, by saying to insurance companies, just because you made a bad investment does not mean you will run a doctor out of business—that is what is happening with these high premiums—and by saying as well to the legal profession, the bad actors have to get out of the courtroom; stop harassing doctors with frivolous lawsuits. That is relatively uncommon, but where it occurs in one case, that is one case too many.

We need to come together after this bill is stopped today in a good-faith, bipartisan effort as we did on the terrorism insurance issue. We need to bring in the AMA, the bar association, the trial lawyers, the insurance companies, and all parties that can come to a good solution. We need to do it quickly. We need a tax credit for doctors right now. We do not need to pass a bill that might help them 8 or 10 years from now; we need to pass a tax credit now, so they can get through this troublesome period where the insurance companies have seen the bottom fall out of their investment and are charging these high premiums. That is the fair way to deal with it.

Please, do not close off a day in court for deserving victims of medical malpractice.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, what is this about today? What are we really talking about? We are talking about access to health care by patients. We have enacted reasonable limits in this bill so the crisis facing 19 States and the patients in 19 States across this country can be resolved.

The problem is caused by out-of-control jury awards and frivolous lawsuits which are cheaper to settle—and those get settled all the time—than they are to fight. The reason they will settle them is the potential huge award and the huge downside risk they have down the line. A lot of insurance companies just settle those and pass the higher rates on to doctors. That has led to many physicians leaving those 19 States in crisis and a lot of new doctors not going into the specialties which are in short supply.

If we ask ourselves the fundamental question, Is there a shortage of doctors or is there a shortage of lawyers? we do not have a shortage of lawyers in my State home state of Nevada, or in any other State, as far as I know. We do not have any shortage of people going into the practice of law. We do have a shortage of people going into the practice of a lot of the specialties in health care. The reason is that we have a jury system that is out of balance. We did not used to live in this litigious society of today. People are so sue happy and the system is set up to encourage frivolous lawsuits.

California and Colorado are the two best examples we have of medical liability reform that has been on the books long enough. We know it works. Victims get what they deserve in those States, but the system is balanced so doctors can afford their premiums on medical liability. That is what the bill before the Senate today lays out, a model very similar to Colorado and California for the rest of the country.

I encourage all of our colleagues to at least vote for the motion to proceed to the bill so we can have a full debate with amendments to proceed to solve this severe crisis we have in access to health care across the country.

The PRESIDING OFFICER. The assistant majority leader.

Mr. MCCONNELL. The vote we are about to have is not about the details of the underlying bill, it is about whether we think there is a medical malpractice crisis in America and whether we ought to do something about it. If we were able to get on the bill, it would obviously be open to amendment and we would see how the Senate felt, that some issue ought to be addressed.

The Senator from Nevada, the floor leader on this subject, says 19 States are currently in crisis and 25 are on the way to crisis, while only 6 of our 50 States are OK as far as the price of medical malpractice premiums not driving physicians out of work is concerned.

It has been incredibly stated on the other side of the aisle by numerous speakers that this crisis has nothing to do with runaway judgments. I don't know how you can reach that conclusion. The people at CBO and the Department of Health and Human Services and the Joint Economic Committee, insurance commissioners, actuaries, all believe this crisis is related to runaway judgments.

California, which we keep referring to, has the model system after which the underlying bill has been modeled. My friends on the other side of the aisle think this crisis has been created by something else. They have been suggesting it is bad returns from the stock market or insurance company collusion, or a cadre of quacks who are causing problems for medicine. I don't know whether all of that has made some contribution, but we know there is one solution that works, and that is the California approach. That is what is in the underlying bill.

We ought to at least recognize this is a national crisis, a national problem that ought to be dealt with at the national level. We will have an opportunity to find out whether the Senate agrees with that shortly when we vote on cloture on the motion to proceed. I hope the Senate will give us an opportunity to get to the underlying bill. It would then be open to all kinds of amendments and we could begin to proceed, as we normally do in the Senate, in crafting legislation to deal with national problems.

We urge our colleagues to vote for cloture on the motion to proceed.

Mr. FRIST. Mr. President, today we will be voting on a cloture motion to allow the Senate to proceed to debate S. 11, the Patients First Act. I want to strongly urge my colleagues to vote for the motion to proceed.

We have had a good debate over the last three days, and it is clear that right now patients across the country are facing a crisis of access to quality health care. Congress needs to act.

The upcoming vote will allow us to fully debate this critical issue. If action is delayed, we know what will happen: Patients will suffer, doctors will continue to flee their practices, and more States will be added to the AMA crisis list. Since we last debated this issue seven more States have joined the list, that is nearly a 60 percent increase over last year.

I have received letters from doctors all over America, including from my home State of Tennessee. Premiums in Tennessee have gone up 68 percent over the last four years, and Tennessee is not even considered a crisis state by the AMA yet.

One doctor from Waverly, TN writes:

> My insurance premiums as a general surgeon have jumped over 70 percent in the last four years. The current crisis has forced me to limit doing any moderate to high risk surgery . . .
>
> There are counties around mine that have lost the services of their general surgeons who have opted to limit their practices to family practices . . . rather than continue to pay the high premiums that are prohibitive for a surgeon in rural Tennessee.

Another doctor from Madisonville, TN writes:

My wife and I came to Madisonville, Tennessee, 24 years ago as national health service corps doctors. We helped start the Women's Wellness and Maternity Center, Tennessee's first out of hospital birth center. We depend on the obstetrical service at Sweetwater Hospital for C-sections and consultation.

This doctor goes on tell me that because of high malpractice premiums Sweetwater has only one remaining obstetrician who is now forced to bear full responsibility for providing 24-hour maternity coverage and that efforts to recruit additional doctors have failed.

As these real life stories show, this health care crisis is real and it is spreading. The current medical liability system is costly, inefficient and hurts all Americans. In addition to damaging access to medical services, the current medical malpractice system creates problems throughout the entire health care system.

It indirectly costs the country billions of dollars every year in defensive medicine. The fear of lawsuits forces doctors to practice defensive medicine by ordering extra tests and procedures. Though the numbers are hard to calculate, well-researched reports predict savings from meaningful reform at tens of billions of dollars per year.

It directly costs the taxpayers billions. The CBO has estimated that reasonable reform will save the federal government $14.9 billion over 10 years primarily through savings in Medicare and Medicaid.

It impedes efforts to improve patient safety. The threat of excessive litigation discourages doctors from discussing medical errors in ways that could dramatically improve health care and save hundreds or thousands of lives. I am a strong supporter of patient safety legislation which I hope we will pass this year. But in addition to patient safety legislation, we need to address the underlying problem—our liability system.

We must reform this broken liability system. That is why I strongly support the Patients First Act. I want to thank my colleague, Senator MCCONNELL, the majority whip, who skillfully led this debate. I also want to thank Chairman GREGG and Chairman HATCH for their longstanding leadership of this issue, and Senator ENSIGN, the lead sponsor of S. 11, who has seen the current crisis close up in his own State of Nevada. And finally, I want to thank Senator DIANNE FEINSTEIN of California. Her State has been the model of medical liability reform and has demonstrated that commonsense reforms work. I look forward to continuing to work with Senator FEINSTEIN on this issue. We share the goal of putting patients first.

The Patients First Act will protect access to care and ensure that those who are negligently injured are fairly compensated. Again, I encourage my colleagues to move this legislation forward. We cannot afford further delay.

I yield the remainder of our time.

CLOTURE MOTION

The PRESIDING OFFICER. All time having expired, under the previous order, the clerk will report the motion to invoke cloture.

The bill 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 the motion to proceed to the consideration of Calendar No. 186, S. 11, the Patients First Act of 2003.

Bill Frist, Mitch McConnell, John Ensign, Craig Thomas, Rick Santorum, Larry E. Craig, George V. Voinovich, John Cornyn, Trent Lott, Ted Stevens, Michael B. Enzi, James Inhofe, Chuck Hagel, Jon Kyl, Judd Gregg, Pat Roberts, John E. Sununu.

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 the motion to proceed to S. 11, the Patients First Act, shall be brought to a close?

The yeas and nays are ordered under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

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

The yeas and nays resulted—yeas 49, nays 48, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—49

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

NAYS—48

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

NOT VOTING—3

Graham (FL)	Kerry	Miller

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

EXECUTIVE SESSION

NOMINATION OF VICTOR J. WOLSKI, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Victor J. Wolski, of Virginia, to be a Judge of the United States Court of Federal Claims.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Victor J. Wolski, of Virginia, to be a Judge of the United States Court of Federal Claims?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

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

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 265 Ex.]

YEAS—54

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

NAYS—43

Akaka	Corzine	Jeffords
Bayh	Daschle	Johnson
Biden	Dayton	Kennedy
Bingaman	Dodd	Kohl
Boxer	Dorgan	Landrieu
Breaux	Durbin	Lautenberg
Byrd	Edwards	Leahy
Cantwell	Feingold	Levin
Carper	Harkin	Lieberman
Clinton	Hollings	Mikulski
Conrad	Inouye	Murray

Nelson (FL)	Reid	Stabenow
Nelson (NE)	Rockefeller	Wyden
Pryor	Sarbanes	
Reed	Schumer	

NOT VOTING—3

Graham (FL)	Kerry	Miller

The nomination was confirmed.

Mr. LAUTENBERG. Mr. President, I rise today to express my profound disappointment with the very troublesome nomination of Victor Wolski to be a judge on the U.S. Court of Federal Claims.

The last time I spoke on the Senate floor about judicial nominations, I whole-heartedly supported and endorsed President Bush's nomination of Mr. Michael Chertoff to the Third Circuit Court of Appeals.

I commended the administration for selecting Mr. Chertoff because he was a ''consensus nominee.'' I supported Mr. Chertoff and many other judicial nominees because they demonstrated that they were not ideologues beholden to a specific political agenda.

I support nominees who demonstrate moderation, fairness, open-mindedness, and the proper judicial temperament.

Victor Wolski is a self-described political ideologue on a mission to promote extreme right-wing libertarian views.

In his own words, Mr. Wolski told the National Journal that ''every single job I've taken since college has been ideologically oriented, trying to further my principles,'' which he describes as a ''libertarian'' belief in ''property rights'' and ''limited government.''

There is nothing wrong with having convictions and strong beliefs. I respect that. But when a judicial nominee views the world through a limited, ideological prism, that presents a grave danger to our democracy and judicial system.

Such a nominee does not inspire trust or confidence in our judicial system.

Victor Wolski has unabashedly dedicated his career to promoting an extreme right-wing crusade to erode important Federal safeguards protecting workers, human health, and the environment.

For example, he has argued that it was ''far beyond'' Congress's power under the Commerce Clause to protect wetlands that serve as habitat for 55 different species of migratory birds and repeatedly referred to these wetlands as ''puddles.''

Mr. Wolski also lacks the judicial temperament necessary for a Federal judge.

In his testimony to the Judiciary Committee, Mr. Wolski asserted that he ''certainly meant no disrespect'' when he referred to Members of Congress as ''bums'' in a letter he wrote to the editor of the San Francisco Chronicle. I wonder what he did means?

Mr. President, it is entirely permissible for Mr. Wolski—as an advocate—to promote limited government; but he should not be a Federal judge.

And he certainly shouldn't be a judge on the Court of Federal Claims.

This is the court that hears disputes involving the Government arising under the fifth amendment's ''takings'' clause—the very constitutional provision Mr. Wolski has fervently worked to undermine and redefine.

Appointing Victor Wolski to the Court of Federal Claims is akin to putting the fox in charge of the henhouse. It is part of the Bush administration's war against the environment—a war the administration is waging on many fronts—the courts included. His nomination is another example of the Bush administration's zeal to pack the courts with right-wing ideologues despite the President's claim that he is ''a uniter, not a divider.'' How cynical.

The ''bottom line'' is that Victor Wolski is wholly unfit for the position to which he has been nominated. I urge my colleagues to vote against his confirmation.

Mr. HATCH. Mr. President, I feel compelled to take a moment to respond to remarks of my colleague from New York on the nomination of Mr. Wolski and the status of the Court of Federal Claims. My colleague from New York has stated that we should not fill the judgeships that Congress itself created. This eleventh- hour attack on the court of claims and Mr. Wolski is simply a thinly veiled effort to stall action on more of President Bush's judicial nominees. Let's give the President a break and be honest.

I would like to respond to allegations that Mr. Wolski is not qualified to serve on the court of claims. These allegations are simply unfounded. I agree with my colleague that, in print, Mr. Wolski's statement in his 1999 National Journal profile raised questions about how he would view his role as a judge. But Mr. Wolski was indeed thoroughly questioned about this statement at his hearing. His response to those questions has convinced me that this statement should not be any bar whatsoever to his confirmation. Mr. Wolski testified at his hearing that he understands that the role of a judge is not political. He understands that the role of a judge—especially a trial court judge—is to follow the law and not to consider personal beliefs or positions argued as an advocate in determining how to rule. Mr. Wolski explained during his hearing that this statement was meant to reflect that his decision to work for our former colleague, Senator Connie Mack, was consistent with his commitment to public service. Mr. Wolski emphatically stated on several occasions throughout his hearing that his statement was meant to clarify the point that he has been not motivated by the money throughout his career, and he does not consider himself an ideologue.

Mr. Wolski has also been criticized about some of the clients that he has represented. It is important to remember that the clients Mr. Wolski has represented have been on both sides of the issues. He has represented property owners in takings cases, but he has also represented municipal and State governments. For example, he is presently a member of the litigation team representing the State of Nevada, Clark County, and the city of Las Vegas in their opposition to the location of a nuclear waste repository at Yucca Mountain. He represented a group of municipal governments challenging a commercial development that would have caused environmental, traffic, and other urban sprawl problems. So plainly, Mr. Wolski has represented a broad range of clients, including some whom a die-hard conservative ideologue would not represent. Instead, Mr. Wolski's clients indicate to me that he has done his best to act as an advocate on behalf of his clients' positions, regardless of his personal beliefs, just as every good lawyer should do.

I know that some of my colleagues have expressed concern about Mr. Wolski's brief in the case of Cargill v. United States. The first thing that I want to point out is the obvious: Mr. Wolski was acting in this case as a lawyer on behalf of his employer and had to perform his duties as assigned to him. In this case, his job was to submit an amicus brief. Second, it is important to note that Mr. Wolski was not challenging Congress's ability to protect migratory birds in general. Rather, his argument specifically addressed the scope of the Clean Water Act, which does not incorporate findings about migratory birds. Mr. Wolski clearly testified that he believes that the Clean Water Act is constitutional.

Finally, in regard to Mr. Wolski's comments in the San Francisco Examiner, I agree that they were a bit passionate, but Mr. Wolski's hearing testimony reflects that he has matured in the 11 years since he penned that letter. In fact, Mr. Wolski testified that he wrote that letter before he worked as a congressional staffer. He testified that had he worked on the Hill before he wrote that letter, he probably wouldn't have written it at all. So I believe that this letter can easily be chalked up to youthful indiscretion, and nothing more. I have every reason to believe that, as a judge, he will act consistently with his past practice by following the law regardless of his personal beliefs.

Now, I would also like to take a moment to respond to some of the allegations regarding the Court of Claims. It is clear that the Court of Claims is a necessity, especially with the current backlog of cases in our Federal district courts. The Court of Claims and the district courts have overlapping jurisdiction. This allows the Court of Claims to ease the heavy caseload in the district courts. As such, the Court of Claims is a mainstay of the system.

A letter to the editor in the Washington Post on April 9, 2003, from the president of the Court of Claims bar association made the point well. He said that the docket of the court ''consists of more than 4,000 cases. Opinions by the judges are recognized as well-written and well-considered and reflecting

of the complexity of the caseload. Those practicing before the Court know that its judges are busy.'' This letter, drafted by a lawyer who actually practices before the court, took direct issue with the Post's recommendation to abolish the court, saying it ''missed the central point.''

The editorial by Professor Schooner in the Washington Post on March 23, 2003, suggesting that the current cases pending before the Court of Claims can be easily divided among the district courts is troubling to me. Eliminating the Court of Claims would add nearly 5,000 additional cases to the district courts at a time when they are unable to keep up with the pace of cases being filed. Professor Schooner's academic analysis also fails to take account of the considerable work and learning that district judges do in order to handle complex patent, antitrust, environmental or civil rights cases.

I must admit that I was surprised to learn how inaccurate the statistics of my colleague from New York were after I did some research regarding the caseloads of the Federal district courts and the Court of Claims. These misleading numbers allege that the district court judges have an average caseload of 355 cases per judge, whereas Court of Claims judges would have an average caseload of 19 cases if the four pending nominees were confirmed. After reviewing statistics from both the Federal courts' legislative affairs office and the Court of Claims, however, it is clear that Senator SCHUMER's figures are erroneous. If we take the current caseload of the Court of Claims and suppose that the court was at its fully authorized number of 16 judges, the average caseload per judge would be 309. This is in sharp contrast to the 19 my colleagues would have us believe and not much less than the average caseload per district judge.

This campaign against Mr. Wolski and the Court of Claims is just the newest tactic in an organized effort to prevent President Bush's well-qualified judicial nominees from being confirmed and it must stop. It is obvious to me that the criticism of the court's necessity is borne more of political opportunity than any serious merit. We shouldn't be in the business of creating more rationales for delay. The lack of any functional problem in litigation between sovereign and citizen, or problem with the court structure, makes the solution of elimination of the Court of Claims a solution in search of a problem.

Mr. HATCH. Madam President, I rise today in support of Victor Wolski, one of the four nominees for the Court of Federal Claims who have been awaiting votes on their nominations by the full Senate since March.

When Mr. Wolski was first nominated to the Court of Claims in September 2002, he joined three other well-qualified nominees to the same court who had been pending even longer. Charles Lettow had been nominated a month earlier, in August 2002, while Susan Braden and Mary Ellen Coster Williams had been nominated, respectively, in May and June 2001. None of them received a hearing in the 107th Congress.

So I am pleased that we have at last reached an agreement for an up-or-down vote on the nominations of Mr. Wolski and the other Court of Claims nominees. But getting to this point was not simple. We had to file a motion to invoke cloture on Mr. Wolski's nomination. Now, I am pleased that our Democratic colleagues agreed to vitiate this motion. But the fact still remains that we were almost forced to resort to a cloture vote simply to secure an up-or-down vote on Mr. Wolski's nomination. Mr. Wolski would have been the first Court of Claims nominee in the history of the Senate to be forced through a cloture vote. This would have been a historic but sad precedent that we came dangerously close to setting. As I said, I am pleased that we did not go down this path and that we are proceeding to an up-or-down vote on Mr. Wolski's nomination.

Mr. Wolski will make a fine addition to the Court of Claims. His nomination has bipartisan support, having been reported favorably to the full Senate by all 10 Judiciary Committee Republicans and Senator FEINSTEIN. He is an accomplished trial attorney who has represented clients on both sides of the issues, including a number of clients on what many consider to be the so-called liberal side. For example, Mr. Wolski has represented a group of municipal governments challenging a commercial development that would have caused environmental, traffic, and other urban sprawl problems. He presently represents a class of Medicare beneficiaries who are suing the tobacco industry to try to recover reimbursement to the Medicare system. And he represents the State of Nevada, Clark County, and the City of Las Vegas in their opposition to the location of a nuclear waste repository at Yucca Mountain. Clearly, this is not the work of an ideologue but the work of an accomplished lawyer who recognizes his duty to represent his clients' interests to the best of his ability.

Mr. Wolski's breadth and depth of experience will be a true asset to the Court of Claims. After graduating from the University of Virginia Law School, Mr. Wolski clerked for Judge Vaughn Walker of the U.S. District Court for the Northern District of California. He has a fine record in public service, including 5 years as a litigator with a public interest law firm. During his tenure there, he represented clients in cases presenting significant issues of constitutional and property rights law. He continued his public service by serving as General Counsel and Chief Tax Advisor in the Congress with the Joint Economic Committee for Senator Connie Mack. As the first person to attend college in his family, Victor Wolski feels it is important to give back to the community and felt a strong commitment towards the public sector. This commitment is quite evident in his professional background.

In 2000, Mr. Wolski transitioned from the public sector to private practice, joining the prominent Washington, DC, law firm Cooper, Carvin & Rosenthal. He now practices with its successor firm, Cooper & Kirk. He has a reputation for being a thoughtful and hard-working legal professional who will be a stellar addition to the Court of Federal Claims, and I commend President Bush for nominating him.

Mr. President, we find ourselves at an important point. We have two eminent and well-qualified circuit court nominees, Miguel Estrada and Priscilla Owen, currently being blocked by a minority of Senators from an up-or-down vote on the Senate floor. History will show that this minority group of Senators was not asking for a full and open debate. They were not asking for meaningful deliberation on these well-qualified nominees. Rather, this minority group of Senators was committed to subverting precedent and reworking the meaning of advice and consent.

I think we can agree that the confirmation process is broken. I certainly hope we can find a constructive way to restore the process, but recent talk does not lead me to be overly optimistic—not when we hear injudicious talk about plans for three, four, or more planned filibusters. I hope that is not the kind of history we want to write. Instead, I hope that my colleagues will see today's up-or-down vote on Mr. Wolski's nomination as an opportunity to put a stop to the obstruction and delay by giving all the rest of our nominees the courtesy of a simple vote on their nominations. That is all we ask.

NOMINATIONS OF MARY ELLEN COSTER WILLIAMS, OF MARYLAND, SUSAN G. BRADEN, OF THE DISTRICT OF COLUMBIA, AND CHARLES F. LETTOW, OF VIRGINIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the following nominations, en bloc, which the clerk will report.

The assistant legislative clerk read the nominations of Mary Ellen Coster Williams, of Maryland, to be a Judge of the United States Court of Federal Claims; Susan G. Braden, of the District of Columbia, to be a Judge of the United States Court of Federal Claims; and Charles F. Lettow, of Virginia, to be a Judge of the United States Court of Federal Claims.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I ask unanimous consent to speak for up to 2 minutes on the nomination of Susan Braden before the vote.

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

Mrs. HUTCHISON. Madam President, I rise to speak in support of the nomination and confirmation of someone for whom I have a great deal of respect, Susan Braden, to be a Judge for the U.S. Court of Federal Claims. I cannot think of a better person for this court. She is currently counsel at Baker & McKenzie. She earned her bachelor degree in 1970 and her law degree in 1973 from Case Western Reserve University. She has worked as a trial attorney in the Department of Justice. She has served as a senior attorney at the Federal Trade Commission. For the past 18 years, she has had a distinguished career in the private sector, specializing in Federal litigation, antitrust, international trade practices, and intellectual property.

Her work on international trade gave her the opportunity to accompany a delegation led by Justices O'Connor, Kennedy, Ginsburg, and Breyer on an official visit to several European courts in 1998.

She is very qualified, and I wish to say on a personal note that she and her husband, Tom Sussman, have been friends of mine for a long time. I went to law school with Tom Sussman. I have a great deal of respect for both Tom and Susan, and I urge my colleagues to support this qualified nominee. She will be a wonderful public servant.

Madam President, I urge approval of the three nominees.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I wish to add my comments to the confirmation of Susan Braden. I happen to know her. She represented a business in the steel industry in Alabama that was in trouble. We tried to save it for the State. She worked so hard with the union members and with the company. I came to be extraordinarily impressed with her dedication, her legal skill, her love of law, and her integrity. I think she will do an excellent job in this important position.

I wanted to add my comments that we need more people like Susan Braden in the courts of America. I think she will do a super job. I am very proud of her on this special day.

I yield the floor.

Mr. HATCH. Madam President, I rise today in support of the confirmation of Susan Braden, who has been nominated to serve as a judge on the U.S. Court of Federal Claims. Ms. Braden has the breadth of experience and accomplishment we look for in a Federal judge, and I commend President Bush for nominating her.

After graduating from law school, Ms. Braden served for 7 years as a trial attorney, and then as a senior trial attorney, for the Department of Justice Antitrust Division. She then worked at the Federal Trade Commission for 5 years as a senior attorney advisor and senior counsel to Chairman David Clanton and Chairman James Miller III. In this capacity, she assumed responsibility for special policy and legislative projects, such as drafting a potential set of guidelines concerning interlocking directorates and issues concerning enforcement of the antitrust laws to professionals.

Ms. Braden has worked in the private sector for the past 18 years, where she has focused on antitrust law, complex civil litigation, international trade matters for industrial clients, and computer software litigation. Her experience will serve her well on the bench. I am confident that she will execute her duties on the bench with integrity, intelligence, and fairness. I ask my colleagues to join me in my unqualified support for her nomination.

NOMINATION OF MARY ELLEN COSTER WILLIAMS

Mr. HATCH. Madam President, I am pleased today to speak in support of Mary Ellen Coster Williams, who has been nominated to the U.S. Court of Federal Claims.

Judge Williams has served with distinction on both sides of the bench. Upon her graduation from Duke University Law School in 1977, she worked in private practice with Fulbright & Jaworski and with Schnader, Harrison, Segal & Lewis.

Judge Williams then left private practice in 1983 to work in the Civil Division of the United States Attorney's Office in Washington, DC. She returned to private practice in 1987 as a partner with Janis, Schuelke & Wechsler.

During her 8 years in private practice and 3½ years as an Assistant United States Attorney, Judge Williams gained valuable experience handling matters involving Government contracts, employment law, torts, and commercial litigation. Since 1989, she has served as an administrative judge on the General Services Administration Board of Contract Appeals.

Judge Williams was named a Life Fellow by the American Bar Association and is currently the vice chair of the ABA Section on Public Contract Law. She also has been active in the District of Columbia Bar Association. Since 1997, she has served on the U.S. Court of Federal Claims Advisory Council, so she has much more than simply a passing familiarity with the court to which she has been nominated.

With her wealth of experience and dedication, Judge Williams is well equipped to serve on the Court of Federal Claims. I urge my colleagues to join me in supporting her nomination.

NOMINATION OF CHARLES F. LETTOW

Mr. HATCH. Madam President, I rise today to express my full support for the confirmation of Charles F. Lettow, who has been nominated to the U.S. Court of Federal Claims.

Mr. Lettow is an excellent selection to join the Court of Federal Claims. He has a strong academic background and more than 30 years of litigation experience in constitutional and administrative law matters. A graduate of Stanford Law School, Mr. Lettow clerked for both the Ninth Circuit Court of Appeals and the U.S. Supreme Court before taking a position in 1970 as Counsel to the Council on Environmental Quality, which was established by Congress a year earlier. His responsibilities included drafting legislation and Executive orders and working to negotiate bilateral agreements.

In 1973 Mr. Lettow joined the firm of Cleary Gottlieb as a litigation associate, became a partner three years alter, and has remained with the firm since that time, focusing on Federal litigation and environmental cases. Cases he has handled over his career have presented often difficult questions of constitutional and administrative law, and he has handled them with expertise.

Mr. Lettow has argued before the U.S. Supreme Court three times and in the U.S. Courts of Appeals in more than 40 cases, as well as litigated in numerous Federal district courts and the U.S. Court of Federal Claims. I cannot imagine someone who is better prepared to sit on the Court of Federal Claims. I urge my colleagues to vote for his confirmation.

The PRESIDING OFFICER. Under the previous order, the nominations are confirmed, en bloc, the motions to reconsider are laid upon the table, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

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

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

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

FOREIGN RELATIONS AUTHORIZATION ACT, FOR FISCAL YEAR 2004

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 925, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 925) to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes.

AMENDMENT NO. 1136

Mr. LUGAR. Madam President, I send a substitute amendment to S. 925 to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 1136.

Mr. LUGAR. Madam 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 printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, today the Senate will be considering S. 925, the State Department authorization bill. During the last 4 months, the Senate Foreign Relations Committee has been working hard on issues related to the funding and operations of the State Department. We have held hearings on public diplomacy, embassy security, the role of the State Department in the war on terrorism, the nonproliferation programs overseen by the State Department, and the overall State Department budget. In numerous other hearings and briefings covering such issues as Iraq, North Korea, Afghanistan, and NATO, we have reviewed the vital role of diplomacy at this stage of our United States history.

In our hearings and through our daily contacts with the State Department, the Foreign Relations Committee has witnessed the commitment and the skill of departmental personnel as they work to improve national security and our prosperity in increasingly difficult and often very dangerous circumstances.

We have seen both the benefits of our successes and the consequences of our failures. We cannot expect diplomacy to succeed 100 percent of the time, but it is vital that our diplomats have the resources and the capabilities that will maximize their chances of success. That is the job of the Senate today. We must make certain that Secretary Powell and this Department have the tools they need to make our case convincingly.

I wish to thank especially the ranking member of the Senate Foreign Relations Committee, Senator JOE BIDEN, for his strong support of this process and his leadership in foreign policy matters. We have agreed on the vast majority of provisions in this bill, and when we have disagreed, we have worked hard to bridge our differences and find bipartisan solutions with our colleagues.

We have always shared the common goal of bringing good legislation to the floor for the Senate's judgment. Senator BIDEN's commitment to this process and his innumerable contributions to the substance of this bill have been indispensable.

After consultations with Senator BIDEN and the majority leader, we determined the Senate would best be served by adding the foreign assistance authorization bill, passed by the Foreign Relations Committee in May, to the State Department bill.

Consequently, the substitute amendment that is the pending business contains the language of both S. 925 and S. 1161. Both bills passed in committee by votes of 19–0. I believe that this combination will give us a chance for a meaningful debate on foreign policy, while expediting the work of the Senate.

At this time in our history we are experiencing a confluence of foreign policy crises that is unparalleled in the post-cold war era. Our Nation has lived through the September 11 tragedy, and we have responded with a worldwide war against terrorism. We have fought wars in Iraq and Afghanistan, where we are likely to be engaged in security and reconstruction efforts for years to come. We have been confronted by a nuclear crisis in North Korea that threatens U.S. national security and that could destabilize the entire northeast Asian region. We are continuing efforts to safeguard Russia's massive stockpiles of chemical, biological, and nuclear weapons and to prevent proliferation throughout the world. We have experienced strains in the Atlantic Alliance, even as we plan for its expansion. We are trying to respond to the AIDS pandemic in Africa and elsewhere, as well as help stabilize Colombia and preserve democracy in Venezuela.

Despite these extraordinary international conditions that demand the constant attention of our Government, the State Department and our foreign assistance programs are still underfunded. Although President Bush and Secretary of State Powell have supported important funding increases for our foreign policy accounts during the last 2 years, we dug a deep hole for ourselves during the 1990s, when diplomatic capabilities were placed at the bottom of our spending priorities.

From 1994 through 1997, for example, the Function 150 account, which funds State Department operations and foreign assistance, sustained consecutive annual real decreases of 3.6 percent, 5.6 percent, 11.4 percent, and 1.5 percent. This slide occurred even as the State Department was incurring the heavy added costs of establishing new missions in the 15 states of the former Soviet Union. Relative to other spending priorities, we continue to disadvantage our diplomatic capabilities. As a percentage of discretionary spending, the international affairs account stands at about 3.4 percent in fiscal year 2003. This is the lowest percentage of discretionary funding devoted to international affairs in the past 2 decades. We are still conducting diplomacy on a shoestring in an era when embassies are prime terrorist targets and we depend on diplomats to build alliances; work with foreign governments to apprehend terrorists before they reach U.S. soil; and explain U.S. principles, values, and policies worldwide.

In April, with the assistance of Senators FEINSTEIN, BIDEN, DEWINE, HAGEL, SARBANES, CHAFEE, SMITH, JEFFORDS, KENNEDY, and others, I offered an amendment to the Senate budget resolution that restored $1.15 billion to the 150 account. The amendment brought the 150 account up to the level requested by the President. The success of the amendment on this Senate floor, during a process when few amendments received favorable votes, illustrates the growing appreciation for and understanding of the role of Secretary Powell and the State Department. But we need to go further. We need to commit to a long-term course that assigns U.S. economic and diplomatic capabilities the same strategic priority that we assign to military capabilities.

There is a tendency in the media and sometimes in this body to see diplomatic activities as the rival of military solutions to problems. We have to get beyond this simplistic formulation. We have to understand that our military and our diplomats are both instruments of national power that depend on one another. They both help shape the international environment and influence the attitudes of governments and peoples. They both gather information and provide expertise that is vital to the war on terrorism. And they both must be unsurpassed in their capabilities, if the United States is going to survive and prosper.

Americans rightly demand that U.S. military capabilities by unrivaled in the world. Should not our diplomatic strength meet the same test? If a greater commitment of resources can prevent the bombing of one of our embassies, or the proliferation of a nuclear weapon, or the spiral into chaos of a vulnerable nation wracked by disease and hunger, the investment will have yielded dividends far beyond its cost.

Both the State Department authorization bill and the foreign assistance authorization bill for 1-year authorizations. Given that the Foreign Relations Committee has many new members, the State Department's responsibilities are expanding, and world events are unpredictable, we decided that it would be wise to retain the opportunity for the committee and the Senate to revisit these bills next year after we have had some time to perform oversight.

The State Department portion of this bill contains funding that covers the operating expenses for the department, embassy construction and security, education and cultural exchange programs, as well as other programs and activities. It also includes funding for: assessed contributions to international organizations required by treaty; international commissions and such centers as the Asia Foundation and the East-West Center; international broadcasting activities; refugee and migration assistance; and Peace Corps funding for 2004 through 2007.

The committee is recommending increases to the administration's request for the State Department of about $400 million, or roughly 4 percent. These increases address needs that the Foreign Relations Committee identified as keys to U.S. success in this dangerous new century. They include: an additional $312 million for embassy construction that will allow groundbreaking this

year for three new embassy compounds; approximately $8 million to increase the cap on hardship pay and danger pay for State Department employees; an increase of $8.9 million to restore cuts in international broadcasting to Eastern and Central European nations; the restoration of $25 million that was cut for SEED and Freedom Support Act funding to Central Europe and the Balkans; and an additional $30 million to strengthen public diplomacy and international exchanges with the Islamic world.

In addition, in committee, individual members offered amendments on such important issues as international support for a successor regime in Iraq, U.S. policy toward Haiti, and U.S. policy regarding recognition of a Palestinian state. A detailed listing of other issues covered and policy recommendations made by the Senate Foreign Relations Committee in this bill are contained in the committee report.

As our committee undertook an in-depth study of State Department needs, we simultaneously examined our foreign assistance programs and their evolving role in U.S. humanitarian and national security efforts. As I indicated, in May, we passed a foreign assistance authorization bill by a 19 -0 vote.

The committee held hearings on U.S. foreign assistance in six strategic regions of the world: the Near East, South Asia, East Asia, Eurasia, the Western Hemisphere, and Africa. In other hearings we explored numerous topics related to foreign assistance, including global hunger, reconstruction in Iraq and Afghanistan, and President Bush's vision for a new Millennium Challenge Corporation.

In the hearings, we learned how the administration's 2004 budget request would support U.S. foreign policy interests. Those hearings were very informative, and I again want to express my appreciation to the subcommittee chairs and ranking members who conducted them, as well as to all Senators who participated.

This was only a first step. Since the mid-1980s, Congress has not fulfilled its responsibilityb to pass an Omnibus Foreign Assistance Act. Several discrete measures, such as the Global AIDS bill, the Freedom Support Act, and the Support for Eastern European Democracy, SEED, have been enacted.

But in the absence of a comprehensive authorization, much of the responsibility for providing guidance for foreign assistance policy has fallen to the Appropriations Committees. The appropriators have kept our foreign assistance programs going, but in many cases, they have had to do so without proper authorization. In most years, the Foreign Relations Committee did pass a State Department authorization bill, but that bill only authorizes about 35 percent of the function 150 account. To fund the remaining accounts, appropriators frequently had to waive the legal requirement to appropriate funds only following the passage of an authorization bill.

There is no single reason why the Congress has failed to pass a comprehensive foreign assistance authorization bill for so long. But we all recognize the difficult legislative task involved. As a general spending item, foreign assistance rarely is high on the list of constituent priorities. Yet specific provisions in foreign assistance bills have often raised political emotions. Thus, comprehensive foreign assistance bills have contended with the most difficult of legislative circumstances—they have generated seemingly intractable political disputes, while lacking an overriding legislative payoff.

We must stop thinking in conventional political terms. Passing a comprehensive foreign assistance bill is good politics, as well as good policy. It is good politics because it underscores the leadership of this Senate at a time when our country is in great peril. It is good politics because foreign assistance is an instrument of national power in the war on terrorism. It is good politics because it recognizes that our standard of living, the retirements of our parents, our children's educations, advancements in our health care, and the security of Americans depend on winning the war on terrorism.

With this in mind, Senator BIDEN and I, with the support of the majority leader, bring the Foreign Assistance Authorization Act to the floor in tandem with the State Department authorization bill.

The Foreign Assistance bill before you authorizes funding levels for most of the foreign operations accounts within function 150 for fiscal year 2004. The committee took as a starting point the request submitted by the President last February. The executive branch has been working with our embassies around the world for many months to develop accurate budget numbers.

As I previously mentioned, the Foreign Relations Committee worked closely with the Budget Committee on maintaining the President's requests for the 150 account. I note this to highlight the fact that we have sought to work within the rules to achieve the overall funding levels that are before us today. Many members of the committee, including myself, would like to have more funding available. But I am hopeful that members will respect the budget process and the decisions that were made earlier in the year.

With respect to the foreign assistance authorization, the committee made relatively few changes to the dollar amounts requested by the President. We provided a $70 million increase for the Freedom Support Act, a $40 million increase for the Support for Eastern European Democracy Act, a $15 million increase for development assistance, a $6 million increase for peacekeeping operations, and a $100 million increase for the Non-proliferation, Anti-terrorism, Demining and Related Programs account. The additional funds in the Account would be used to safeguard and hasten the destruction of weapons of mass destruction. They also would provide $15 million for a new initiative, The Radiological Terrorism Threat Reduction Act of 2003, contained in title IV of the bill. This legislation authorizes the State Department to provide contributions and technical assistance to the IAEA to deal with the dirty bomb threat. The bill is the result of a cooperative effort between Senator BIDEN and myself, as well as Senator DOMENICI. I want to thank Senator BIDEN for his leadership, going all the way back to the hearings he held in 2002 on this issue.

On the other side of the ledger, we have reduced funding for two of the President's requested programs. The Millennium Challenge Corporation has been reduced from $1.3 billion to $1 billion. This is not an expression of doubt about the MCC concept. Rather, the reduction is based on the judgment that the MCC will require time to become established and may not be able to efficiently distribute the entire $1.3 billion request in the first fiscal year. The $300 million has been deferred until the next fiscal year when the MCC would be in a better position to spend it. We also have made a small cut in the Andean counter-drug initiative. It has been reduced from $731 million to $700 million—the amount appropriated in the previous fiscal year. In addition, we have authorized 2 new contingency funds at the request of the President—the Complex Foreign Crises Fund and the Famine Fund. But we have not authorized specific amounts for these Funds.

Finally, I would like to address the Millennium Challenge Corporation. For those Senators who have not studied this concept, it is a bold proposal by President Bush to provide a new model for U.S. foreign assistance programs. A compromise version of the Millennium Challenge Corporation bill is included in the substitute before us.

Our foreign assistance must be aimed at both humanitarian objectives and goals that aid in the fight against terrorism over the long run. These include strengthening democracy, building free markets, and encouraging civil society in nations that otherwise might become havens or breeding grounds for terrorists. We must seek to encourage societies that can fulfill the aspirations of their citizens and deny terrorists the uncontrolled territory and abject poverty that the terrorists use to their advantage. To do this, all of us should begin to think about foreign assistance as a critical asset in the long-term war on terrorism.

This process will require us to ask how nations develop political stability and economic momentum and how they become good international citizens that contribute to the peace and prosperity of the world community. The Millennium Challenge Corporation has

been proposed on the assumption that we do know some of the answers. We believe that successful societies cannot be built without good leadership, economies based on sound market principles, and significant investments in health and education. By establishing firm criteria to measure and reward the progress of low-income nations in these areas, the MCC can provide a powerful incentive to foreign governments to embrace and sustain reform.

The Senate Foreign Relations Committee strongly supported the basic premise of the MCC and applauded the President's personal commitment to the concept. However, members came forward with differing proposals on the organization and bureaucratic status of the MCC. The committee passed a version of the MCC that differed substantially from the President's initial vision.

Since that time, Senator HAGEL, Senator BIDEN, and myself have sought to construct an efficient format for this concept that would be supported by the White House while meeting the concerns of our committee. These talks were difficult, but they also were a positive indication of the interest in the ultimate success of the MCC. I believe that we have succeeded in constructing a good compromise. Everyone gave up something to move the bill forward. Senator BIDEN and Senator HAGEL will be addressing the Senate on their views toward the MCC, and I am sure that they will outline some concerns and reservations. I want to thank both of them for their willingness to be flexible and their contributions during this process.

I would note that the White House also was instrumental in concluding this compromise. The administration has endorsed Senate passage of the the Lugar-Hagel version of the MCC.

Our MCC compromise creates the needed ingredients for inter-agency coordination, a top priority among a majority on the committee. It puts the MCC under the authority of the Secretary of State and has the chief executive officer report to the Secretary. But it does not determine the integrity of the President's concept. It gives the MCC the same autonomous status as the US Agency for International Development with the right to manage itself, hire staff, and create its own new culture. It mandates coordination between the MCC and USAID in the field and gives USAID the primary role in preparing countries for MCC eligibility.

I believe our MCC approach is the right plan at the right time. It provides a way to focus single-mindedly on economic development that is results-based and meets clear benchmarks of success. We can have the coordination we seek while also insulating it from short-term political considerations so that it can focus on the long-term benefits of widening the universe of countries that live in peace and look to a prosperous and stable future.

I would like to notify members that I will be offering a managers' package of amendments and will be asking unanimous consent that it be adopted. As part of that package, Section 204 of S. 925 will be deleted from our bill because it has been included in the defense authorition bill. I would like to express appreciation to Senator WARNER, the distinguished chairman of the Armed Services Committee, for his help on that matter.

The other amendments in the managers' package are technical in nature, clarifying original intention, or correcting errors.

I am looking forward to the debate on this bill and the constructive contributions of our Members at this important time in our Nation's history.

The PRESIDING OFFICER. The Democratic leader.

ACCELERATING THE INCREASE IN THE REFUNDABILITY OF THE CHILD TAX CREDIT—MOTION TO PROCEED

Mr. DASCHLE. Madam President, first, I compliment the distinguished chair of the Foreign Relations Committee for his work on this omnibus piece of legislation. I intend to support it. I admire the work that has been done. I notice Senator HAGEL is in the Chamber, and Senator FEINGOLD. They and Senator BIDEN have really done yeoman work bringing us to this point. The MCC, foreign aid legislation, in addition to the State Department authorization bill, represents a tremendous amount of work and effort to get us to this point. I look forward to the debate.

Having said that, however, I must rise to express my frustration on an unrelated matter. I want to call to the attention of my colleagues the fact that it has now been a month since the Senate passed bipartisan legislation, 94 to 2, to rectify a problem that we all agreed should be fixed. I am referring to the 12 million children, and over 6 million families, that were excluded from legislation we recently passed and signed into law providing tax relief to American families.

Shortly after the exclusion was noted, the President admonished the Senate and the House to solve this problem as quickly as we can because we were bumping up against a deadline.

I recall all the speeches on the Senate floor. Republicans and Democrats came to the floor and said: Yes, we have to change this. Yes, we have to recognize that by July 25th all of this must be done. Yes, when all of these checks go out and relief is provided to everybody else, we should not be leaving out these 12 million children or these 6 million families. Let's resolve it. Let's do it. We said unequivocally that we were going to resolve this by the 25th of July.

Here we are, well into the second week of July, just a matter of a couple of weeks to go before the 25th is here, and yet there is no action. We keep promising. We keep hearing the promises made by others. The fact is, nothing has been done.

I think it is important for us, once again, to light a fire, to reignite it, to state again our determination to see that this is going to be done, to see that these people are not left out, to ensure that we address this issue as we all promised we would do just a month ago.

While I want to get on with this bill and while I want to be as supportive as I can to assure that the very distinguished chair of the Foreign Relations Committee can move this legislation along, I simply believe it is time for us, once again, to restate our determination to solve this problem. We do not need any time. We can have the vote just as we had it before and complete our work on it. But I do think it has to be done prior to the time we get into the real, legitimate debate and discussion about the many worthy aspects of the bill the distinguished chair has laid down.

So, Madam President, at this time I move to proceed to S. 1162, the child tax credit bill, in order for us to accomplish that task first.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HAGEL. Madam President, I ask unanimous consent I be allowed to speak for not more than 10 minutes on the pending legislation, to be followed by the distinguished Senator from Wisconsin for 20 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. Madam President, if I could ask, when I am recognized, that my statement be as in morning business, rather than as part of this subject.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nebraska.

Mr. HAGEL. Madam President, I thank my friend and colleague from Wisconsin.

I rise this afternoon to support the legislation that the chairman of the Senate Foreign Relations Committee has brought to the Senate floor today. I also wish to acknowledge his strong leadership, along with that of the distinguished ranking minority member, Senator BIDEN. They have done a particularly effective job at a historic time in the history of this country and the world. This country, the world, and this body will continue to look to their leadership as we go forward into the next challenging year.

I also rise this afternoon to support the Lugar-Hagel compromise regarding

authorization for expanded development assistance through President Bush's initiative to establish the Millennium Challenge Account—MCA, as the distinguished Chairman mentioned, as part of the substitute to the Foreign Relations Authorization bill which is now before the Senate.

America faces no greater challenge in the world today than assisting global development and helping eliminate poverty. The security and prosperity of America and our allies cannot be disconnected from stability in the developing world. There are approximately 6.3 billion people in the world and roughly half of them live on less than $2 per day. An estimated 2.4 billion of them are 19 years old or younger.

The next generation hangs in the balance. Global threats and connections to terrorism, weapons of mass destruction, poverty, despair, oppression and infectious disease are not always apparent, but this combination of threats presents complex challenges for America and her allies. Global economic development is a shared interest and must be a shared responsibility.

The Millennium Challenge Account represents a significant new direction in economic development. Linking American development assistance to good governance, democracy, human rights, transparency, and rule of law, will help support the transition to more stable and democratic political systems in the developing world.

The Lugar-Hagel compromise on Millennium Challenge assistance addresses the concerns of myself, Senator BIDEN, and some of my colleagues on the Senate Foreign Relations Committee regarding the organization and management of the Millennium Challenge Corporation, the new agency that will be established to administer this program.

There was unanimous support in the committee for the goals of the President's program—the innovative evaluations and indicators that will be used to assess a country's eligibility for assistance, and the need for more funding for economic development. But I shared the concern of Senator BIDEN and other colleagues that this initiative should complement and expand, not constrain or complicate, the authority of the Secretary of State to manage foreign assistance.

This is a particularly critical time in the history of our Country and the world.

Given the many challenges we face in the world, the secretary's role as America's chief diplomat must not be undercut or compromised. The Lugar-Hagel compromise places the management of the MCA directly under the authority of the Secretary of Sate, who chairs the board of the corporation.

We have the potential to bring a new dynamic to American government interagency cooperation and coordination on economic development on a large scale. The board of the Millennium Challenge Corporation, chaired by the Secretary of State, would also include the Secretary of the Treasury, the USAID Administrator, and the U.S. Trade Representative, as well as the CEO of the corporation, who will report directly to the Secretary of State. This type of coordination, if managed properly, will bring new energy and creativity to our development programs.

America remains the world's indispensable leader in working with others to help promote global stability and prosperity and help eradicate poverty and disease. We need to do more. We will do more. And we need to do it better, smarter and wiser in meeting the challenges of global poverty.

That means our programs and the management of those programs must be more efficient and accountable. Establishing the Millennium Challenge Account is clearly in the interest of the United States. Millennium challenge assistance can play a creative and important role in helping shape a new approach to development policy.

Global development is not a zero-sum game.

As economies stabilize and grow, the citizens of those countries prosper, as well as citizens from all countries. Trade-based growth is the most effective approach to long-term economic stability and prosperity. America's development policies should reflect these economic development fundamentals.

America's credibility will much depend on our ability to continue to assist the developing world. Our power and influence is not defined solely by our military might. President Bush's Global AIDS initiative, his trip to Africa, and the MCA proposal all reflect dynamic and new commitments to security and development.

September 11, 2001 reminded Americans that we face a dangerous world with complex connections and enormous responsibilities for U.S. leadership. The world is inter-connected. Global development, prosperity and stability are directly connected to America's future.

I urge my colleagues to join Senator LUGAR, myself, and others in supporting this compromise management approach to the Millennium Challenge Assistance program.

As the chairman of the Senate Foreign Relations Committee indicated, this approach, this amendment, this compromise, is also being supported by the White House and the State Department.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Wisconsin is recognized.

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

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

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

Mr. FEINGOLD. Mr. President, I thank the chairman for allowing me to speak at this point and for the excellent experience of serving on the committee during his tenure as chairman.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I commend the distinguished Senator from Wisconsin for his extraordinary leadership as subcommittee chairman and ranking member over a number of years and his eloquent and important statement on Africa today.

In a moment, the majority leader will be on the floor, and Members will want to take note that a rollcall vote is likely to occur sometime around 2 p.m. The leader will explain the situation. In the meanwhile, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I understand the Democratic leader has made a motion to proceed to a bill on the calendar regarding the child tax credit and that the motion is pending.

As my colleagues know, we have been considering critical legislation regarding the State Department reauthorization and are ready to proceed with that debate. The child tax credit bill is currently in conference. That conference is underway. We need to allow the conferees the opportunity to work through the regular order and reconcile the differences between the House and Senate bills. Meetings are underway. We will be meeting later today on the very important issue of the child tax credit. Therefore, in order to allow the process to move forward on that issue and to allow us to return to the important pending legislation, I now move to table the motion to proceed and ask that the vote occur at 2 p.m. today and further that the pending motion be set aside until that time.

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

Mr. FRIST. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Delaware.

Mr. BIDEN. Mr. President, I am pleased to join Chairman LUGAR in presenting the Foreign Relations Authorization Act for fiscal year 2004. As the chairman has described, we will soon submit a substitute amendment consisting of the text of three bills: S. 925, the Foreign Relations Authorization Act as reported out of committee in April; S. 1161, the Foreign Assistance Authorization Act, as reported out of committee in late May; and thirdly, a bill authorizing a new program, the Millennium Challenge Account which

was initiated by the Bush administration in March of 2002. This program was authorized by the committee in legislation also reported in May. Since then, further discussions have occurred between myself, Senator HAGEL, and the chairman which the chairman has already described. I will return to that subject in a few moments.

All three bills received unanimous support from the Committee on Foreign Relations. The markups of these bills were not at all contentious and, quite frankly, didn't last very long. Their easy passage in committee is a testament to the bipartisan approach the chairman is developing on this legislation and the committee as a whole. The chairman has already summarized the provisions of the substitute amendment. Let me join him in highlighting a few of the key points.

First, the bill provides the President's budget request for the Department of State, and it does more. We increase the authorization for several programs where we believe the budget request is inadequate, such as embassy security, international exchanges, public diplomacy, and in certain foreign aid accounts, including programs devoted to nonproliferation activities. If we are going to send people overseas to advance American interests, we have to protect them. We have to give them the tools to do the job. That is what we attempt to do here.

Second, the bill authorizes establishment of a Middle East television network. In recent years, the Broadcasting Board of Governors has done an incredible job in reviving our radio broadcasting in the region. Radio Sawa now is, if not the most popular, one of the most popular and oft-listened-to programs in the region. I would note parenthetically that as we struggle to make our case known in the Middle East, we have to understand who our target is. You have the vast majority of the people, for example, in Iran under the age of 18. You have the vast majority, 60 percent of the folks in the Arab world, under the age of 18. We have a very young audience, an audience that if we don't begin to get the U.S. message across, in light of what they are being fed now, these young pages sitting here who make the Senate run, they are going to, when they get to be my age, inherit the whirlwind. They will have a gigantic problem.

The television network is a new undertaking that I and others have been pushing for some time. It is a new undertaking for the U.S. Government in broadcasting but one that I believe is clearly worth trying. Most people in the Middle East get their news from television. Three of us, the Presiding Officer, the chairman and I, returned a week or so ago from Baghdad. One of the things we found out was our case has not even been made there. We control the television de facto right now, and we are on, unless something changed in the last week, at least 4 hours a day with the most bland broadcasts. It is not but it seems that it is straight out of the public information department of one of the agencies in the Federal Government. We have to figure out a way to get Iraqis on television 12, 14, 18 hours a day explaining straightforwardly what is going on over there.

The Iraqi people right now are in 123 degree weather. They have no electricity and they are wondering why Uncle Sam, who could defeat their great Satan Saddam Hussein in such a short time, rout his vaunted army and Republican Guard and fedayeen, can't get everything up and running immediately for them.

They think like most folks in that difficult region of the world that there must be some plot. What they don't know is—and we are not broadcasting it—that all our efforts—not all—are being sabotaged, literally blown up, blowing up the grids, blowing up the powerplants. They are blowing up the oil pipelines.

So one of the larger points about the television network is we have to be in the game. We have to be in the game to be able to try to get our points across in a region where we don't get a very fair shake.

Third, the bill authorizes expanded international exchanges with the Muslim world, including high school exchange programs, modeled on a successful effort that has been in place with Russia and the newly independent states for some time now, and it is successful. There are a lot of avenues for reaching out to the Muslim world, and face-to-face exchanges are one of the best ways to be able to have impact on opening people's minds.

In the foreign assistance portion of the bill, let me call attention to two provisions—the Radiological Terrorism Threat Reduction Act and the Global Pathogen Surveillance Act. My friend from Indiana, the chairman, may be quietly smiling at me for taking these two and focusing on them because they are two proposals that I put forward. But I thank him for concluding they had merit and seeing to it they are in the bill.

I developed these bills over the past year to address the threat of possible radiological terrorism and bioterrorism. The bill on radiological terrorism would address the threat posed by radiological dispersion devices, colloquially known as dirty bombs. Most people listening to this do not understand when we talk about dirty bombs. A lot of people think it is a nuclear device, a homemade nuclear device. That is of consequence, but the dirty bomb can cause incredible economic dislocation, although it is not likely to kill a lot of people. It is taking radioactive material and packing it around conventional explosives and blowing it up and ending up making the area in which it is dispersed have a level of radiation that exceeds what is safe in the minds of the EPA and scientists for people to be engaged in. But it is not going to kill a lot of people if one went off, God forbid, in the Mall, which is not far from here. But it is a clear and present danger and a concern.

The Global Pathogen Surveillance Act is the second piece of legislation which authorizes $35 million in assistance for fiscal 2004 for developing nations to improve their efforts to detect, track, and contain disease outbreaks.

As the SARS epidemic has demonstrated, viruses and pathogens do not respect national borders. Without a quick diagnosis of a biological attack or a rapid recognition of suspicious patterns of diseases, and fast transmission of that information, we can see that an epidemic can spread very rapidly by getting people heading out of an airport not knowing they were exposed.

In dealing with dirty bombs and dangerous pathogens, it is in our national interest to help other nations contain these threats before they get to our shores—threats that do not respect national borders. This legislation does that. It helps them set up infrastructures to be able to have their public health systems go out and identify the existence of these pathogens. One of the things we know about SARS—and the criticism of the Chinese is they didn't acknowledge what was happening quickly enough. They didn't put in place quickly enough a national system to contain it. You have to know the problem before you can warn people of its existence. Many of these countries—a vast portion of them—do not have a public health infrastructure to be able to do this. This helps them; it is a small start of $35 million for that effort.

Finally, let me say a few words about the millennium challenge account. The President deserves, in my view, credit for proposing a significant increase in foreign aid, and requiring that such assistance be targeted to selected countries which meet certain performance criteria. I will acknowledge on the floor what both of my colleagues here know. I was skeptical of whether or not the performance criteria were really a way to avoid delivering foreign aid or a way to identify what we know is important. When we give foreign assistance to a country that, for example, is a democracy, as opposed to a dictatorship, we know that aid is more likely to meet its desired end and be used in a way that is efficacious than when we give it to a country that has no standards, so that we can determine how the money is being dispersed. I have become convinced for some time now that—and this is a President who, historically, I am told has been opposed to foreign aid per se, and some of his predecessors share his view—this is actually a way to increase not only our contribution in foreign assistance but also its efficacy. When we spend a dollar, we will get a dollar's worth of benefit—not us, but the people who get it for the expenditure.

We have learned over the last several decades that providing foreign assistance is important. We have learned a lot. One thing we know is that assistance works best in countries that get the basics right, countries that invest in the health and welfare of their people, have a relatively democratic system and an economic system that is open and transparent. That is what this millennium account is about—making sure that more money goes to places that will be able to use it well.

Where the administration has taken the wrong turn, in my view, is with this proposal to establish a new governmental agency to administer this program. Five years ago, under the leadership of our friend and former colleague, Senator Helms, Congress abolished two foreign policy agencies, the Arms Control and Disarmament Agency and the U.S. Information Agency, and merged them into the State Department. The legislation enacted in 1998 also gave the Secretary of State more authority to supervise operations of agencies; in particular, the Agency for International Development, so-called AID. I supported that initiative as did I think both of my colleagues here.

The President's proposal, the Millennium Challenge Account, in my view, is directly contrary to the decision Congress made 5 years ago about how we should organize. It would create a new agency to be located outside the State Department and outside the Agency for International Development. In my view, it would weaken the authority of the Secretary of State to coordinate all foreign assistance. I find it ironic that a Republican President would seek to expand the Government's foreign policy bureaucracy, just a few years after Congress voted to reduce the size of that same bureaucracy.

During the committee markup on this bill, the Presiding Officer, Senator HAGEL, and I offered an amendment with the very powerful case he made, which the committee adopted by an 11–8 vote, to prevent the establishment of such an agency. Instead, the Hagel-Biden amendment gave the Secretary of State the authority to coordinate this new program consistent with the 1998 Helms reorganization legislation that passed. The administration responded by threatening a veto if the Hagel-Biden amendment were to survive in conference. I must say I don't find that veto threat very credible. It is easy for me to say, since I am not the chairman. There is a degree of sensitivity that increases when you are the ranking member and it is a President of your own party. I have been there. So I am sure my friend believes that veto threat is much more credible than I think it is. But that is pure conjecture. The reason I am doubtful is the President has yet to veto a bill—I would be shocked if he would veto this whole bill over that one issue. But that is a matter of subjective interpretation.

Subsequent to our markup and this veto threat, the chairman developed a compromise text that meets Senator HAGEL and me part of the way. It retained the provision establishing a new agency, but it does do some good, in my view. It gives the Secretary of State greater authority over the agency by having its chief executive officer report to the Secretary of State, just as the AID administrator reports to the Secretary.

That is an improvement, but it still contains a fatal flaw, and that fatal flaw is the new agency, in my view. Moreover, it adds to the confusion by having the head of the agency report to the Secretary of State, but then assigns several of its critical functions to a five-member board on which the Secretary of State is only one of those five members and dispersing this aid through the millennium account.

Reluctantly, I will go along with this compromise proposed by the chairman. I still believe it is a mistake to create a new agency, and if things were to change, and if by the grace of God and the good will of the neighbors my party took over the Senate again, and if I were chairman of this committee, I must put everyone on notice that I will try to eliminate that agency and try to put it back in the State Department because I think it is a mistake. But I want to deal in full disclosure here.

I am going along with it because, quite frankly, the option is not particularly acceptable. The option is not have the agency, not have the money, not have the increased foreign aid, which I think is not a rational option.

If this legislation is enacted, as I said, I reserve my right to fight another day to attempt to reverse the decision. But based on the way things are going, I do not think anybody should get too worried if you think having a separate agency is a good idea.

I have acceded to the desire of the chairman in order, as I said, not to let the bill get bogged down on this organizational issue. I agree Congress should move forward and improve this important initiative, but in the coming months, the President's proposal will be put to the test relatively quickly. In announcing this initiative, the President pledged to increase foreign assistance above and beyond current aid budgets; in other words, not to sacrifice current programs. This is not we take away from here to give to foreign aid. It is to increase foreign aid and maintain our commitment on other programs as well.

I must tell my colleagues, I am starting to doubt the President will be able to deliver on that commitment. The allocations of the foreign operations appropriations account for fiscal year 2004 in the other body, the House, is abysmally low, in my view, just $17.1 billion, a reduction of $1.7 billion below the President's request. The allocations in this body, in the Senate, are better, $18.1 billion, but still three-quarters of a billion dollars below the President's request.

Even the bill before us falls short. It authorizes $1 billion in fiscal year 2004 and increases to the $5 billion level by 2006. But for this fiscal year, it is $300 million below the President's request.

Again, this is not a criticism of the chairman. He made a very valid point. We have not passed an authorization bill in a long time, and we did pass a budget with which I did not agree. I voted against the budget resolution, but the majority of the U.S. Senate voted for it. The chairman's argument is we must stay within that budget to have credibility in order to get the requisite number of votes to do something we have not done in a long time: pass an authorization bill.

The fact is, we are below the President's request because of being constrained by the budget guidelines we passed, and the House is way below it, $1.7 billion. According to press reports, the Vice President of the United States was involved in negotiations with the House leadership over House allocations. If that is true, it does not look to me as if the administration is working very hard to support this millennium challenge account. Again, as the old saying goes, the proof of the pudding will be in the eating. We are going to know very soon, God willing.

It is beyond my comprehension how the Congress will adequately fund the millennium account, keep our commitment to $3 billion a year to HIV/AIDS assistance, and not reduce any current programs. I seriously doubt it can be done, but I sincerely hope I am proven wrong on that score.

The burden, in my view, is on the President and the majority in Congress in both Houses to deliver on the President's promise. Just as the United States will demand accountability for countries that become eligible, the rest of the world is waiting to see if we will fulfill the President's commitment that has been widely circulated at the G–8, widely circulated in every international forum, and I think we will be making a gigantic mistake if we do not meet the President's commitment.

Mr. President, I yield the floor. I thank the chairman, and I believe we are ready to consider amendments. I see Senator BROWNBACK is in the Chamber. It is my understanding Senator BROWNBACK may start, but we are going to, at 2 o'clock, have a vote and then go back to Senator BROWNBACK.

I thank the chairman for his diligence, for his courtesy, and for his leadership in getting us to this point.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, in the absence of the Senator from Delaware, I congratulated and commended him earlier on for his work as former chairman of the committee and one who has worked so closely with the chair and with myself on the MCA and so many other issues. I deeply appreciate that. That is the reason we are at this point.

AMENDMENT NO. 1139 TO AMENDMENT NO. 1136

Mr. LUGAR. Mr. President, I send a managers' amendment to the desk, and

I ask unanimous consent that it be adopted.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself and Mr. BIDEN, proposes an amendment numbered 1139.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1139) was agreed to.

Mr. LUGAR. I thank the Chair. Senator BROWNBACK is in the Chamber, and he has amendments to offer. I am hopeful he might be recognized.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank Senator LUGAR for his outstanding leadership on this bill and on the issues of foreign affairs. He has done a fabulous job, as has Senator BIDEN, the ranking member.

I also thank Senator BIDEN for the tremendous eulogy he gave about Strom Thurmond at the funeral in South Carolina last week. The Senator really did us very proud with his representation of this body and his relationship with Strom Thurmond. It was a touching event. His eulogy of Strom Thurmond was beautiful. I heard a number of people comment about it. It was very nice of him to do that. It was very nicely done.

Mr. BIDEN. Mr. President, I thank my colleague. It was a great honor for me to participate.

AMENDMENT NO. 1138 TO AMENDMENT NO. 1136

Mr. BROWNBACK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 1138.

Mr. BROWNBACK. 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 allow North Koreans to apply for refugee status or asylum)

At the end of title VIII, add the following:

SEC. . TREATMENT OF NATIONALS OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA.

For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

Mr. BROWNBACK. Mr. President, this is a simple amendment. I wish to spend a little bit of time talking about it, but it is quite straightforward, it is very important, and it is quite timely.

This amendment regards North Korean refugees and their seeking of refugee status in the United States. It is a one-paragraph amendment. Succinctly put, this will allow the United States to accept as refugees North Koreans who are fleeing North Korea and accept them as refugees into the United States. There currently is a legal dispute as to whether they can be accepted as refugees into the United States. The reason is because when you are born on the Korean peninsula, under the South Korea Constitution, they are automatically citizens of South Korea. Under our law, if you go to another country, you can go there and not seek refugee status here.

There are exits of massive proportions taking place out of North Korea today. We do not know how many. Some have guessed it is as low as 30,000 and as high as 300,000 North Koreans currently outside North Korea and in China living off the land. South Korea really cannot be expected to take all of these refugees who are fleeing China.

It would be an important statement, an important gesture of the United States to be willing to accept North Koreans who are fleeing as refugees into the United States. We can talk about how many at a later time. This seeks to clarify the legal dispute right now so they can be accepted.

The reason I say it is important right now is because currently, at a British consulate in China, there are four North Korean refugees seeking refugee status in the United States, and they are being denied that status of coming to the United States.

I think it is very important that they be allowed to come here as a statement of our support for freedom and liberty and against the tyranny of Kim Jong-il and his regime. The story of the North Korean people is one of the saddest tales on Earth, of hunger and fear and desperation. Isolation, indoctrination, torture, and arbitrary executions are the means to keep North Korean leader Kim Jong-il and his circle of cronies in power, and they exercise this authority and abuse that enormously.

Just the other day, the Financial Times reported on the lavish lifestyle of the North Korean tyrannical dictator saying that while Kim kept a private chef flown in from Japan to prepare his meals:

His people were forced to consume . . . tree bark, grass and insects to stave off starvation.

The wretched situation inside North Korea has forced many North Koreans to take flight to any country that will accept them. The most logical destination is China, given its porous border and proximity with North Korea. Yet China refuses to acknowledge North Korean refugees, instead calling them ''economic migrants,'' thereby denying them protections normally afforded those fleeing political persecution. This is first and foremost a humanitarian concern for the fate of several hundred thousand refugees currently hiding in fear from North Korea in northeast China.

Without forcing China to grant this opening for safe harbor, not only will we be abandoning the North Korean refugees in China but we will be abandoning the 22 million people still inside North Korea. If a window for exodus is created, then the North Korean people will want to escape Kim Jong-il's tyranny. Though it is not yet certain, this exodus will likely expose the fissures in the regime, therefore triggering its implosion.

I rise to offer this amendment to the Foreign Relations Authorization Act, an amendment version of the North Korean refugee bill that I recently introduced along with other Members. Senator KENNEDY has been a key sponsor and supporter of this effort, which will allow North Koreans fleeing Kim Jong-il's tyranny to be resettled in the United States.

Under the Constitution of the Republic of Korea, any person born on the Korean peninsula of a Korean father automatically retains the right to citizenship in the Republic of Korea, that is South Korea. That presents a simple problem for Koreans wishing to be resettled here in the United States.

This past weekend, as I noted, while we were enjoying hot dogs, fireworks, and family during the Fourth of July Independence Day, four teenaged North Koreans made their way to the consulate of the United Kingdom in Shanghai, China. These four North Koreans wanting to get away from the Stalinist-style repression sought refuge first with the British consulate, but expressed the desire to be resettled as political refugees in the United States.

According to today's Korea Times, their request to be resettled in America was denied by the U.S. Government, reportedly saying that it is the U.S. position not to ''accept North Korean defectors.''

These are people simply yearning to be free from a Stalinist, repressive regime, one of the worst human rights situations in the world, one of the worst politically oppressive situations in the world. If this is the case, if they are being denied by our Government, then I wonder if the Department of State believes that by doing so it is upholding America's responsibility under international law and fulfilling our moral obligation to give safe harbor to anyone fleeing persecution, and clearly they are.

I find this report to be appalling. It is sad to me to think that of all the United States can do in the world, and do so correctly, it is to be humane and uphold the principles of human dignity.

On June 5 of this year, I chaired a hearing titled ''Life Inside North Korea,'' exposing the brutality of Kim Jong-il's regime. In January, I attended the inauguration of the new South Korean president, President No, in which I asked him, a former human rights lawyer and admirer of Abraham Lincoln, to have compassion for his fellow Koreans across the DMZ and help them in their exodus.

Last December, I traveled to northeast China along the North Korean-

Chinese border to see the situation there, to meet with local Chinese officials and get input from NGOs working with North Korean refugees trapped in China.

Finally, in June of 2002, Senator KENNEDY and I held a hearing on North Korean refugees and the resettlement question.

My amendment would ensure that at least there is the opportunity to come to the United States as refugees and it would give hope to those fleeing this repressive regime of North Korea.

There is much we could do to prioritize resettlement of North Korean refugees, but this is the first, easiest, and most noncontroversial step. I want to thank Chairman LUGAR and Senator BIDEN for allowing me to offer this amendment and give this consideration before the committee.

This is a situation that needs to be addressed now. It will be an enormous positive statement to the world and to the Korean refugees if the United States says, yes, we will accept refugees from North Korea. It will be a terrible travesty if we say, no, we will not accept refugees fleeing one of the cruelest, meanest dictators in the world.

About a third of the North Korean people right now live on international food donations, much of which are coming from the United States. It is a regime that is repressive beyond belief. There are books out now—one I have read, ''Eyes of the Tailless Animals''—about how the regime treats the people so horrifically, worse than animals.

We have had pictures of refugees coming out—they drew them. They could not take pictures, but they showed how deplorable the conditions are.

I ask for a strong vote in this body to pass this amendment allowing the possibility of resettlement of North Korean refugees in the United States.

I yield the floor.

Mr. LUGAR. Mr. President, I support the amendment of the Senator from Kansas. Some may suggest this legislation is unnecessary, that any legal right to citizenship that North Koreans may have in South Korea would not necessarily bar them from eligibility for refugee or asylum status under the Immigration and Nationality Act.

However, with enactment of this legislation, certainty is provided on this issue. And I believe we must do more. It is important that we continue to press China toward better treatment of North Korean refugees, and I support efforts by the Administration in providing greater emphasis on supporting non-government organizations assisting North Korean refugees.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, very shortly we are going to have a rollcall vote. I am hopeful we might take action before that point. So I will make just a brief statement of support for the amendment of the Senator from Kansas. He is a dedicated member of our committee, has traveled to Korea as he mentioned in his statement, as well as other parts of Asia that are relevant to this amendment.

Some suggest the legislation is not necessary, that the legal right to citizenship North Koreans may have in South Korea would not necessarily bar them from eligibility of refugee or asylum status under the Immigration and Nationality Act. However, with enactment of this legislation, certainty is provided on this issue.

I believe we must do more. It is imperative that we continue to press China toward better treatment of North Korean refugees and support efforts by the administration in providing greater emphasis on supporting nongovernmental organizations assisting North Korean refugees.

Both managers of the bill, Senator BIDEN and I, are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 1138.

The amendment (No. 1138) was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas.

CHILD TAX CREDIT

Mrs. LINCOLN. Mr. President, I rise today to speak on behalf of an issue we are getting ready to vote on at 2. This is an issue we have had a lot of debate on. We have certainly discussed the issue in great detail about how important it is to provide the kind of tax relief to all working Americans trying to raise a family. This is an issue, of course, of the refundability of the child tax credit.

I do not know what it is going to take for this body and the other body to send a bill to the President, who has already said he would sign this initiative. It is less than 1 percent of the overall tax package that was passed and sent to the President to be signed. The fact is multitudes of Americans are going to get tax relief in the next couple of weeks and 12 million children in this country are going to be left out. These are hard-working American families who are playing by the rules. They do not even qualify for this unless they have a working income and they have children.

This is a special opportunity we have. If one individual in the House of Representatives can hold up providing relief to 12 million children, 200,000 military families, not to mention well over 50 percent of the population of my State, there is no reason we should be here to begin with.

I encourage my colleagues, let's move to proceed to the bill to provide the refundability of the child credit to all working families and those who are working desperately to provide for their children and our great Nation.

Mr. MCCAIN. Mr. President, I will vote to table the motion to proceed to the consideration of S. 1162, the Child Tax Credit bill. However, I am only voting in favor of the motion to table in order to give the conference sufficient time to create a final bill so that millions of American families earning between $10,500 and about $25,000 will receive tax relief through the acceleration of the refundable child tax credit.

Accelerating the refundability is especially important for military families. The Department of Defense estimates that there are approximately 192,000 families whose income is between $10,500 and about $25,000. I believe that it is highly unconscionable that many of them will not receive child tax credit relief this year unless we pass a child tax credit bill this summer.

Therefore, I urge the conference to complete a final bill in a timely manner. Otherwise, if there is another motion to proceed to the consideration of this legislation, I will vote in favor of the motion to proceed.

VOTE ON MOTION TO TABLE MOTION TO PROCEED TO S. 1162

The PRESIDING OFFICER (Mr. ALEXANDER). Under the previous order, there will be a vote on the motion to table the motion to proceed.

The yeas and nays have been ordered.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

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

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—51

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

NAYS—45

Akaka	Conrad	Hollings
Baucus	Corzine	Inouye
Bayh	Daschle	Jeffords
Biden	Dayton	Johnson
Bingaman	Dodd	Kennedy
Boxer	Dorgan	Kohl
Breaux	Durbin	Landrieu
Byrd	Edwards	Lautenberg
Cantwell	Feingold	Leahy
Carper	Feinstein	Levin
Clinton	Harkin	Lincoln

Mikulski	Pryor	Sarbanes
Murray	Reed	Schumer
Nelson (FL)	Reid	Stabenow
Nelson (NE)	Rockefeller	Wyden

NOT VOTING—4

Graham (FL)	Lieberman
Kerry	Miller

The motion was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LUGAR. Madam President, the distinguished Senator from California, a member of our committee, is prepared to offer an amendment, and we are eager to have that debate.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1141

Mrs. BOXER. Madam President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. CHAFEE, Ms. MIKULSKI, Mrs. MURRAY, and Mrs. Snowe, proposes an amendment numbered 1141.

Mrs. BOXER. Madam President, I ask unanimous consent that the reading of the remainder of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961)

At the end of title VIII, insert the following new section:

SEC. 815. GLOBAL DEMOCRACY PROMOTION.

(a) FINDINGS.—Congress makes the following findings:

(1) It is a fundamental principle of American medical ethics and practice that health care providers should, at all times, deal honestly and openly with patients. Any attempt to subvert the private and sensitive physician-patient relationship would be intolerable in the United States and is an unjustifiable intrusion into the practices of health care providers when attempted in other countries.

(2) Freedom of speech is a fundamental American value. The ability to exercise the right to free speech, which includes the ''right of the people peaceably to assemble, and to petition the government for a redress of grievances'' is essential to a thriving democracy and is protected under the United States Constitution.

(3) The promotion of democracy is a principal goal of United States foreign policy and critical to achieving sustainable development. It is enhanced through the encouragement of democratic institutions and the promotion of an independent and politically active civil society in developing countries.

(4) Limiting eligibility for United States development and humanitarian assistance upon the willingness of a foreign nongovernmental organization to forgo its right to use its own funds to address, within the democratic process, a particular issue affecting the citizens of its own country directly undermines a key goal of United States foreign policy and would violate the United States Constitution if applied to United States-based organizations.

(5) Similarly, limiting the eligibility for United States assistance on a foreign nongovernmental organization's willingness to forgo its right to provide, with its own funds, medical services that are legal in its own country and would be legal if provided in the United States constitutes unjustifiable interference with the ability of independent organizations to serve the critical health needs of their fellow citizens and demonstrates a disregard and disrespect for the laws of sovereign nations as well as for the laws of the United States.

(b) ASSISTANCE FOR FOREIGN NONGOVERNMENTAL ORGANIZATIONS UNDER PART I OF THE FOREIGN ASSISTANCE ACT OF 1961.—Notwithstanding any other provision of law, regulation, or policy, in determining eligibility for assistance authorized under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), foreign nongovernmental organizations—

(1) shall not be ineligible for such assistance solely on the basis of health or medical services including counseling and referral services, provided by such organizations with non-United States Government funds if such services do not violate the laws of the country in which they are being provided and would not violate United States Federal law if provided in the United States; and

(2) shall not be subject to requirements relating to the use of non-United States Government funds for advocacy and lobbying activities other than those that apply to United States nongovernmental organizations receiving assistance under part I of such Act.

Mrs. BOXER. Madam President, the reason I was happy to have the clerk read the first three findings in this amendment is that I think these words really speak to what the United States is all about, which is free speech, the ability for people to be told the truth, and the ability of medical professionals not to be gagged from telling the truth.

Most unfortunately, what is happening right now, as a result of this administration's policy known as the Mexico City policy, foreign nongovernmental organizations—in other words, nonprofit organizations—that received USAID family planning funding are restricted in how they can help their patients.

Who are these patients? I will go into this later in detail. But they are the poorest of the poorest women in the world. What has happened, I would say because of politics in this country, is we have a very unfortunate worldwide policy now that says to the private, nonprofit organizations that are helping the poorest of the poor people—mostly women—they cannot use their own money to advocate for changes in the abortion laws of their own country.

So if they believe the abortion laws in their own country are, for example, killing women because they are saying there can be no abortion ever, even to save the life of a woman, they cannot use their own funds to advocate for change. Or if they believe the woman who comes before them has decided, of her own free will and her own conscience and with her own religious guidance and with her own family guidance, that she would like to have a legal abortion, these foreign, nonprofit organizations may not use their own money to help that woman. Not only that—this is, to me, the worst of it all—they may not use their own money to provide full and accurate medical information about what options a woman has.

It is hard for me to understand that in a country as free as ours, in a country as great as ours, we would have a policy which we dare not do in our own country because it would be clearly unconstitutional. A domestic gag rule is clearly unconstitutional. Why would we put such a policy forward and tell these little nonprofit organizations, that are struggling to meet the needs of the poorest of the poor, they would jeopardize their USAID funding if they absolutely do nothing more than even tell a patient what her legal options are, what her safe options are?

This is known as the Mexico City policy because it came out of a conference in Mexico City a very long time ago. This policy ended with President Clinton in 1992, when he said he would absolutely uphold the law that we had before this global gag rule which said you cannot use Federal money in any way to promote abortion—that was the law, and he didn't disturb that—but certainly a group could use its own money.

What happened is for 8 years we did not have this regressive policy that turns the clock back on women's rights, and yet when President Bush came in, it was one of the first things he did, to reinstate this Mexico City policy.

I am very proud that cosponsoring my amendment, which would overturn this policy, are Senator CHAFEE and Senator SNOWE. I am very proud to have them as Republican lead cosponsors. I am also very proud to have Senator MIKULSKI and Senator MURRAY as cosponsors. I am very happy to say the ranking member of the committee has told me I may add his name and he will be speaking in behalf of this amendment.

Clearly, we have an opportunity to do the right thing today. We have done it before. We have overturned this before. We have taken a stand before. I hope we will do it again.

Again, I wish to say what we are talking about here because there is always confusion. This has nothing to do with Federal funds. Federal funds may not be used in any way related to abortion. This only has to do with the private funds of these little nonprofits that are trying to help women.

What has been the impact of this gag rule? You may say, Senator BOXER, that is very interesting, but what is really happening on the ground?

Here is what is happening on the ground. With the gag rule in place,

these organizations face two choices: They can either refuse U.S. assistance or they can limit their own services. You know how hard that must be for these struggling organizations in these very poor nations.

Madam President, you have seen the world in your capacity as head of the Red Cross. You know some of these places are struggling. You know very much of it is the women who struggle the most, who are the most poor, who have the most health needs. We are seeing organizations saying: OK, I can't take the money. I can't take USAID funding because I cannot limit my ability to help my patients.

I am going to show you a case later that is very emotional and very disturbing as one example of a group that turned back this funding, and I will tell you why.

Imagine the Hobson's choice they face. Here they are, struggling, yet if they take this money, they can literally not tell their patients the truth. They are literally barred from telling their patients what is the most safe procedure for you, what are your options. They may not tell the patient that.

What is happening on the ground—and we will prove it with cases before you—we say women and families are suffering increased misery and even death. They are suffering this because there are clinics that are shutting down because they cannot take the money, and there are clinics that are being gagged, they cannot tell the truth.

Why is family planning assistance important? This is not just about abortion. These are clinics that help women plan their families. We know family planning increases child survival rates. It improves maternal health. It prevents the spread of HIV/AIDS. We have the President of the United States—and it is wonderful that he has decided to visit Africa. I have to say, while he talks about how much he wants to help HIV/AIDS, and I believe he does, he needs to understand, and perhaps he doesn't get the fact, if these clinics close down, we are going to see the spread of HIV/AIDS, we are going to see the spread of other infectious diseases.

International family planning funding helps save lives. On the one hand, to say I am here in Africa to help and on the other hand to have imposed a gag rule on doctors and nurses and clinicians so they cannot tell poor women the truth about their options or they cannot work to change the regressive laws of their country—for example, to say if a child is raped, if a child is the victim of incest, that child ought to be able to get a safe, legal abortion—these clinics cannot even do this under this global gag rule.

As a result of USAID funding, more than 50 million couples in the developing world use family planning. In the last 30 years, the percentage of couples using family planning has risen fivefold. This is something to celebrate. We know fewer than 10 percent of couples used contraception in the 1960s. We are talking about foreign countries that we helped. Now 50 percent of the couples use contraception. So the word is getting through. But the need for family planning assistance continues because of the growth of population.

Why on Earth are we setting in place a vehicle, this global gag rule, which will deprive people of their health care, will deprive women of knowing what their options are? We don't know exactly how many organizations have refused funding because of this gag rule, and we cannot measure exactly how many abortions would have been prevented by family planning. But we know clearly whenever you cut back in family planning services, you see an increase in abortions. We know 78,000 women throughout the world die each year. I want us to think about what that means. Seventy-eight thousand women throughout the world die each year as a result of unsafe abortions. At least one-fourth of those unsafe abortions in the world are girls age 15 to 19.

When we have a policy that results in clinics shutting down, we have a policy that results in illegal abortions because if they take the money, they can't tell a young girl the truth of what her options are. She may run to a back alley in desperation, and she may well die.

Seventy-eight thousand women throughout the world die each year from unsafe abortions. That is not a pro-life policy. I am sorry. That is an anti-life policy to put women at risk.

Seventy-eight thousand women die each year. That is a horrific statistic. That is happening because women cannot avail themselves of the family planning services they need.

What does our amendment do? What does the Boxer-Chafee-Snowe-Mikulski-Murray-Biden amendment do? First, it says foreign nongovernmental organizations cannot be denied funding based on the medical services they provide with their own funds, including counseling and referral services. Withholding medical information, as I have said before, to patients who need it is an intolerable situation. It would be intolerable in this country. We know, because it was tried in this country 20 years ago. There was absolutely an uproar. Doctors would say, excuse me, are you putting a gag over my mouth? Are you saying I cannot tell my patients what their legal options are? The answer came back: This cannot be sustained in a country that believes in freedom of speech. So what we couldn't do here we are doing there.

We say there shall be no gag rule. That is the first part of our amendment.

The second part says in addition to being able to tell the patients the truth about their options, an organization should be able to lobby in any way it wants as long as it doesn't use USAID funds.

We have a win-win situation in this amendment. Doctors and nurses and folks who work in these nongovernmental organizations and these small nonprofits are going to be able to tell the truth to their patients. Here are your options. Treat their patients like adults. I think it is essential to treat a woman like an adult. This is your predicament. These are the things you can do. You can have a child. You need to think about that. You could keep the child. You can give the child up for adoption. That is an option. You can end this pregnancy, if you end it early without complication. But it is your choice. I think women should be treated as adults.

Then if these organizations see that women are dying from illegal abortions because this country, let us say, outlawed legal abortions, they can lobby for this with their own funds. What we are doing is restoring democracy to the USAID program.

Frankly, I can't believe this regressive policy is even here in the 21st century. It is killing women. This is not something that is preventing abortions. Its impact is that women will seek illegal abortions. It is what happened in this country. Hundreds of women in this country died every year because they could not get access to safe, legal abortions until Roe v. Wade. Then we said to women, this is a legal option. It is your call. It is up to you at the early stages of the pregnancy. It is really a very straightforward and fair law.

What we are saying to women abroad now is if you go to a doctor, you should be able to hear your options. If your organization wants to be able to lobby on your behalf for better laws to protect your life, they ought to be able to do that—not with Federal funds, not with USAID funds, but with your own funds.

The global rule is undemocratic. It is a miserable impediment to poor women. It would be unconstitutional if imposed on our own citizens. It is bad foreign policy. I believe our bipartisan amendment ends it and does it in a very good way—in a way everybody can be proud of.

I want to tell you a story and give an example that occurred in Nepal.

I am so proud to serve on the Foreign Relations Committee at this time. I am the only woman, which is a lonely thing. Madam President, you ought to think about coming on with me. It is a great honor and privilege.

I want to say that our chairman, Chairman LUGAR, could not be a more fair chairman, could not be a more hard-working chairman, and could not have more respect on both sides of the aisle. It is an honor to be on that committee in the Senate. It is an honor to be serving with the ranking member, JOE BIDEN. I think our colleagues are very bipartisan. It is a tough time now in our country for bipartisanship. We really work together on that committee.

At the time we were in the majority, we had a series of hearings on this

global gag rule to see what was happening on the ground.

In 2001, I chaired a subcommittee hearing where we had a small nonprofit, nongovernmental organization from Nepal. They were faced with this global gag rule. They had to make that Hobson's choice: Do they take the money and then give up their right to lobby in behalf of their patients or do they turn back the money? This little organization turned back the money. The reason they did it was not some abstract theory but a specific case. They cited how their organization was able to advocate on behalf of the 13-year-old girl whose name was Min Min.

This is a story I want to share with my colleagues. How can we turn our backs on this child and other children like her? How we can turn our backs on the organizations that are out there is beyond my comprehension to understand.

Min Min was raped by a relative. I want to show you her face. She was 13. Her family forced her to have an illegal abortion after the rape. As a result of illegal abortion, she was arrested and she was taken to a central jail in Nepal. In 2001, Nepal put the victim in jail—not the relative who raped her. Look at this child. The girl's relatives were not punished. But Min Min was sentenced to 20 years in jail, and she was abandoned by her family.

In your life, could you even imagine such a thing? A 13-year-old girl jailed for her life after she was raped. That was her crime.

This particular NGO in Nepal had refused to take USAID money because they wanted to advocate to change the laws in Nepal.

You would think we would be on their side. You would think we would be horrified that 13-year-old girls can go to jail for 20 years because they are the victims of rape by a relative. You would think we would say to this nongovernmental organization: We want to help you. But, no, under this global gag rule put into place by this administration this little girl was left that way, without the help of USAID, without the funding of USAID.

This NGO, which turned back the money, went to bat for her and to change the law. After 2 years in prison, this child—2 years in prison, from age 13 to age 15, when a child should be home with her family, getting the guidance and love of her family—after sitting in jail after 2 years, finally, the laws were changed. Because the NGO, the nongovernmental organization, refused to take the money—because they knew they must work to change laws—they were free to go and do it, and they got the law changed and she was released after 2 years in jail—2 years in jail for being a victim of a sexual assault by a relative.

Now, had this NGO taken the money of USAID, they would not have been able to advocate on behalf of this child. We had the leader of this organization come before the Foreign Relations Committee, and this is what he said: ''How can we turn our back on women who die or are injured daily due to unsafe abortion?'' How can we stop organizations from changing the laws?

The happy ending to this terrible tale is that the NGO worked with the government and last year the law was changed. There will no longer be lifetime jail sentences when these young girls are raped. That is the good news.

Let me give you the really terrible news. This NGO has been forced to close clinics in Nepal because of the loss of their USAID money. Now, can anyone stand up here—and I would ask someone. We have a Senator in the Chamber who I know opposes this and may get up and defend what we are doing. But it is pretty clear, my friends. You can put any fancy language and ideology on it. I am not ideological. I just do not want to kill women. I just do not want to have little girls age 13 sitting in prison because they are raped. I just do not want to tie the hands of organizations to rescue girls such as this, to change the laws of their country that wind up killing women, harming women, and making them sit in jail when they are raped.

If you can explain why that is a good law, that is your choice, and I respect that and all, but I cannot understand how we would, in this 21st century, tie the hands of small nonprofit groups that want to help girls and women such as this.

In Zambia, the Family Life Movement of Zambia, a faith-based, antiabortion organization, has been unable to expand programs because the global gag rule has disqualified Planned Parenthood Association of Zambia, a partner organization. The FLMZ promotes abstinence among young people in Zambia and it does not provide contraceptives but they are in partnership with Planned Parenthood. They are a faith-based antiabortion organization.

I told you, I am not ideological on this point. They are in a partnership with Planned Parenthood. This group that believes in abstinence, they cannot get the funding from USAID. Now, you explain to me how that works.

What this organization does is, if they would come across a young person or young people who are sexually active, they would be referred to this Planned Parenthood group or they could receive information about contraception. But the global gag rule has forced Planned Parenthood of Zambia to close three of its nine rural outreach programs and costs them more than $100,000 worth of contraceptives.

So here you see it. You see on the ground what is happening to organizations that are trying to help the most desperate women and girls.

The Family Planning Association of Kenya, which does not provide abortion, has had to cut its outreach staff in half, close three clinics that served 56,000 clients in traditionally underserved communities, and they have had to raise their fees at their remaining clinics because they would not take the money because they did not want to be gagged.

One of the clinics that closed housed a unique well-baby center that provided comprehensive infant and postpartum care, making it easier for women to receive critical followup care. The baby center is now closed.

What is going on? I think there is a misunderstanding in this administration because they are shutting down well-baby clinics. They are shutting down well-baby clinics. They are shutting down organizations that distribute contraception. They are shutting down organizations that are fighting for laws that will save women's lives.

This is a terrible, terrible regulation. It is terrible for the women. It is terrible for the doctors there. It is terrible for the nurses there. It is terrible for the babies there.

I think it is a terrible message from our country that we are so ideological over here that we will not let nongovernmental organizations that are trying to help women and families do their work because of some dispute over abortion in this country. I have some words about that: Get over that dispute. That dispute will be with us for a long time. We are going to have to resolve it in our way. But why make women in foreign countries pay the price, children in foreign countries pay the price, little girls such as Min Min pay the price because we have an argument over here over whether a woman should have the right to choose?

We are doing things to these organizations we cannot do in this country because it is a violation of the Constitution; it is a violation of freedom of speech. We are going around the world trying to bring democracy to countries.

We have soldiers dying for freedom of speech in Iraq right now—every single day. I have another 14 Californians who are dead since the war ''ended.'' Why are they there? They are fighting for freedom and democracy and freedom of speech for the Iraqi people.

But we have a policy that takes away freedom of speech from folks who want to help people get health care. It is a very bizarre twist in our country's history, and one that, believe me, is not lost on other nations.

Recently, the Health Minister of Kenya has suggested that abortion should be made legal as a way to confront the devastation that unsafe abortion has on the women in that country.

Well, congratulations to the Health Minister of Kenya for understanding something that our Supreme Court figured out a long time ago: that abortion should be legal and women should not be made into criminals, nor should doctors who help them as long as that abortion is performed in the early stages of the pregnancy. That is all that Roe says in this country.

The Health Minister in Kenya is looking at the devastation of illegal abortion. He is looking at the devastation of back-alley abortion, just as our

people looked at that in the 1950s, 1960s, and 1970s and came to the conclusion that we ought to legalize this and keep the Government out of it and let the people decide such an intensely personal, private, difficult, moral, religious issue.

He has come to the conclusion that people know better, not the government, that there should not be a rule that you must be forced in any way on this issue—either to not have an abortion or to have an abortion—and that maybe his people should be trusted. The organizations that have the gag rule in Kenya cannot speak out, when they know what they see and they want to help reduce maternal mortality and morbidity.

I am giving you these examples of various countries because I want my colleagues to understand this is not about ideology. This is about practicality. This is about children like this. This is about women. This is about families. This is about babies. This is about people getting help.

The Family Guidance Association of Ethiopia, the largest reproductive provider in that country, operates 18 clinics, 24 youth service centers, 671 community-based reproductive health care sites, and hundreds of other sites for health care. Still fewer than 20 percent of Ethiopians live within a 2-hour walk of any health provider.

We are talking about countries where people can't jump in a car and drive an hour to get health care. They literally have to walk to their health care. So if even a few of the clinics have to close down because of lack of funding, women are consigned to trouble. They are going to have to go two blocks around the corner, down the street, behind a house and have an illegal abortion and maybe face death or infertility.

A half a million dollars has been turned away by this organization, the Family Guidance Association of Ethiopia, because they will not abide by being gagged. They will not say to their doctors: You can't tell women the truth. They will not say to the nurses: You can't tell women the truth. They will not say to their people: You can't lobby your own government for changes in laws that will help women.

So what has happened? They have had to cut off the supply of contraception. It is a very sad day. Since abortion is illegal in Ethiopia, imagine what is going to happen if people can't have contraception?

You want the world to be perfect. I well remember this discussion when my children were younger. You want your children to listen to you. You want to make sure that every child is a wanted child. You want to make sure that there is abstinence, yes. But it might not happen. And if it doesn't happen that way, the way you want it to happen, to what are we consigning our young people?

In the case of these foreign governments, we are looking at a child in jail, and this one was raped by a family member. What is the policy of our country to be that we are going to tell these young women we are not on their side?

I cannot fathom it. A girl put in jail, served for 2 years because she was raped by a relative, and the nonprofit foreign organization that helped her was punished by America because they wanted to help her, because they wanted to get the laws changed, because they wanted to get her out of jail? What is wrong with us? How can we proudly stand by this gag rule? We should not. We should repeal it today.

As I say, we have bipartisan sponsorship on this bill and we have a chance to overturn it. The President has threatened to veto the bill if we overturn this global gag rule. Can you imagine, the President has said he will veto the bill if we reverse this rule, if we want to help children like Min Min. I want to ask the President: Do you think it is right to put a little girl in prison because she was raped by her family? I am sure he would say: Of course not. It is awful.

Then I would ask him: Do you think it is a good thing for people in that country to come to this little girl's rescue and help her? I am sure he would say: Of course.

My next question would be: Then why are you shutting off the funds to the nonprofit organizations that want to help her cause? He would probably say: Let me get back to you.

Frankly, I don't see how he could answer that without taking a long time to twist it around. This isn't about ideology. This is about real people. This is about the poorest children, the poorest women, the poorest families. This is about imposing a gag rule, which we are not allowed to do in this country because we have a Constitution, on other people. Why? I guess because we can. It is wrong.

It is wrong that the largest family planning organization in Ethiopia—God knows they have enough trouble there; they have droughts and everything else—loses $500,000 because they won't be gagged. And as a result, people cannot get contraception. And as a result, women are going to have to have illegal abortions because abortion is illegal in that country.

We know 78,000 women every year die across the world from illegal abortion. We are the United States of America. We are a good country. We are a kind country. We are a generous country. We are a great country. Why would we do this to the poorest of the poor?

In the case of Ethiopia, 229,000 men and 300,000 women in urban areas are not getting served by this organization because there is some ideological problem that we have here in this country that we should not export elsewhere.

I am coming to the end of my examples. I have one more about Peru. There is a program in Peru that is designed to engage local women from poor communities across the country in identifying the most pressing reproductive health needs. This organization, Manuela Ramos, convenes the discussions and then works with the Ministry of Health to develop specific responses to those needs. In many communities, women identify unsafe abortion as their most pressing problem. The gag rule prohibits this organization from even engaging in discussions about ways to reduce illegal, unsafe abortion.

I am mortified that a decision by this administration is gagging not only the people who receive USAID funds but even the people who go there are not allowed to discuss together how to make life better for the women of Peru, the women of the world.

I am taking a lot of time on this today because I am pleading with my colleagues to stand up and be counted. If it is true that you are not going to vote for this because the President said he will veto the bill, I say: Let's go for it. Maybe he will change his mind. I am happy to sit down and tell him about Min Min, this 13-year-old girl. I am happy to give him the statistics. I will be glad to talk to him about the 78,000 women dying every single year from illegal abortions. I believe I could maybe change his mind.

Maybe he will change his mind—let's give it a chance—if he sees a strong bipartisan vote.

I want to show you a couple of other charts and then I will be finished, until I hear the other side and I will come back to debate.

This is an editorial that appeared in the Washington Post when this global gag rule was put into place. It is headlined ''Divisive on Abortion.''

Making an organization censor its views as a condition of receiving government money would be unconstitutional on free-speech grounds in this country; it should have no place in U.S. foreign policy. Moreover, requiring doctors to withhold information from patients violates the common conception of medical ethics. There will be . . . more circulation of the AIDS virus, more poverty-entrenching high birthrates and more unwanted pregnancies—meaning more abortions.

I will take a minute to talk about this because this really sums up what I have been saying in a very neat little package.

Making an organization censor its views as a condition of receiving government money would be unconstitutional on free speech grounds in this country.

Well, you know that is true. We don't do that. We don't tell every group in this country that receives Federal funds they cannot talk about anything, because this is America, the land of the free and the home of the brave. Free speech is the basis of our country. It is what our soldiers are dying for in Iraq. So we don't tell people in this country that if you get Federal funds, if you get Social Security, you cannot talk about X, Y, or Z. If you get funds through Medicare, you cannot talk about A, B, or C. Try that on the elderly population in this country. You will be out

of office so fast you won't know what hit you. Face it, that is what we are doing here.

They say that kind of condition on receiving money should have no place in U.S. foreign policy. I agree with that. Here we are, a bastion of freedom and democracy and free speech, going around the world telling people about that on the one hand and our soldiers are putting their lives on the line. Yet in this program, we are telling little charitable, nonprofit health care centers they cannot tell their patients the truth. Not only that, if they see a law that is killing their patients, they cannot work to change it. What a shame on our country. They say it should have no place in foreign policy. That is exactly right. That should have no place in foreign policy.

> Requiring doctors to withhold information from patients violates the common conception of medical ethics.

How true is that? When our doctors take the Hippocratic oath, they say they will do no harm, they will do everything to save the life of their patients and give them the best of health care. Imagine going to your doctor and you have a terrible illness and the doctor knows four options for you and he cannot talk about two of them because the Government said he could not. So you hear about two options but not the other two. When you found out that you didn't get the whole story, and something happened to you, your family would be in the courthouse door—and rightly so—saying: How could my doctor not have told my dad that this particular type of surgery would have cured his cancer?

The fact is, we are gagging doctors and health care practitioners in foreign countries from telling patients the truth. Then this editorial says:

> There will be . . . more circulation of the AIDS virus, more poverty-entrenching high birthrates and more unwanted pregnancies—meaning more abortions.

We have a policy in our country called the global gag rule which I, Senator CHAFEE, Senator SNOWE, Senator MIKULSKI, Senator MURRAY, and Senator BIDEN are trying to overturn. We hope to get a lot of you with us. We are trying to overturn a policy that is causing illegal, unsafe abortions to take place because, clearly, if you tell a nonprofit organization they cannot tell you the truth, you are going to be desperate.

Seventy-eight thousand women a year die. So you are also going to see more circulation of the AIDS virus. Why? Because a lot of these clinics that are closing down—and it is not just about abortion; it is about family planning, contraception, and learning how to protect yourself from the AIDS virus and other sexually transmitted diseases. And there are going to be ''poverty-entrenching high birthrates.''

Why would this be a policy of the United States of America? It is hurting people, not helping them. It is gagging people, not giving them free speech. It is hurting America's reputation in the world. It turns the clock back on progress.

Let me say very clearly as I close my opening statement that the Washington Post said:

> Around the world, more than a half-million die from pregnancy-related causes annually. A real pro-life policy would focus on reducing that death toll by providing more contraception and safer abortions.

That is it in a nutshell. It is not like we are dealing in mysteries. We know certain truths. We know that if women have access to good health advice, they will avoid unwanted pregnancies. We know that if they have access to good health advice, they will have healthy babies and they will be healthy. We know all those things. And we know for that to happen, women have to be educated on their options. We know that.

What else do we know? We know that some countries do terrible things. I want to show you again the picture of Min Min, who is 13 years old. She is in prison because a family member raped her. The organization that tried to help her, in order to do that, had to hand back their USAID funding because President Bush said they could not help her. He put the global gag rule in place. He said nobody can help her. That is what it says. If I talked to him one on one, I know he would be shocked at this story, but the fact is that this policy of a global gag rule made it impossible for the organization to help her until they gave back their USAID funding. What a shame on our country—to be associated with such an outcome.

I want to be proud. This is a country I love. I want to be seen as helping, as spreading democracy and freedom of speech and ideas.

So for all those reasons, I hope we will have a good vote that will get rid of this global gag rule. I don't care if there are veto threats. We have to stand up for something here. This is the Senate of the United States of America. This is the year 2003. Little girls such as this should not have to suffer because we have a policy that punishes folks who want to help her.

With that, I yield the floor and I hope we can continue this debate.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished Senator from California has presented her case, as always, with eloquence. Let me ask the distinguished Senator, I understand Senator BROWNBACK may wish to speak on this issue, I want to speak for a short while on the issue, and the Senator from California perhaps wants some time.

Mrs. BOXER. Mr. President, if my friend will yield, Senator REID wants to be here, and I believe Senator BIDEN. I can get back to the Senator from Indiana in short order with how much time we will need.

Mr. LUGAR. What I would like to propose is we plan to vote at 5 o'clock and have 40 minutes more debate evenly divided, 20 minutes to a side. That would be my hope.

Mrs. BOXER. I would think that will work, if I can just have a moment to get back to the Senator.

Mr. LUGAR. Very well. I will proceed, and then if the Senator can inform me, that will be helpful.

Mr. President, when the Mexico City policy, which is our discussion today, was restored by President Bush in 2001 when he came into office, he stated once again the conviction that the U.S. taxpayer funds should not be used to pay for abortions or for the advocacy, for those who actively promote abortions as a means of family planning.

The fact that this President has taken this position, as have other Presidents before him, does not lessen his commitment or our commitment to strong international family planning programs. Indeed, President Bush's fiscal year 2004 budget requests $425 million for population assistance, the same funding level appropriated during fiscal year 2001, President Clinton's final year in office.

President Bush has confirmed his commitment to maintaining these funding levels for population assistance because he knows one of the best ways to prevent abortion is by providing voluntary family planning services. That is a policy of our Government now. It is a policy that our President advocates for the future.

We are all aware of the numerous attempts to reach compromise language that would satisfy all sides on this very important issue but no acceptable accommodation has been found to date. Perhaps in recognition of this state of affairs, the President has advised that any legislation that seeks to override the Mexico City language will be vetoed.

Let me make clear that the restrictions in the Mexico City policy do not prevent organizations from performing abortions if the life of the mother would be in danger if the fetus were carried to term, or abortions following rape or incest. Similarly, health care facilities may treat injuries or illnesses caused by legal or illegal abortions.

I wish to make that point because the distinguished Senator from California has told the story, and it is a tragic one, of a 13-year-old girl. I simply want to clear up the point that the Mexico City policy has not prevented organizations from performing abortions if the life of the mother would be in danger if the fetus were carried to term, or abortions following rape or incest.

The issue comes in whether taxpayer funds of the United States should be utilized by organizations in the internal debates within countries. That clearly is an issue upon which Senators will differ, but it is a different issue than the issue of whether, in fact, funds might have been utilized in this particular tragedy.

There are many foreign nongovernmental organizations through which

USAID can provide and does provide family planning information and services to people in developing countries. The President has decided that assistance for family planning will be provided to those foreign grantees whose family planning programs are consistent with the values and the principles of his administration. And every President since 1984 has exercised his right in that regard.

I wish to make clear, and the Senator from California is correct in this assumption, the administration's statement of policy with regard to legislation that we now are engaged in states with regard to the amendment on Mexico City policy:

> The administration would strongly oppose any amendment that would overturn the administration's family planning policy, commonly known as the Mexico City policy, and allow U.S. taxpayer funds to go to international organizations which perform abortions and engage in abortion advocacy. The President would veto the bill if it were presented to him with such a provision.

Mr. President, as manager of this bill, I have to take that statement seriously, as does every Senator. The distinguished Senator from California has indicated perhaps the President might be persuaded to change his mind, and perhaps that is the case. But this President has been very clear and I think the directives with regard to policy on this legislation are very clear in the language I have just read.

I appeal to Senators that there are so many important provisions in this legislation with regard to our national security, the importance of our diplomacy, humanitarian concerns to international organizations, the dues that are paid—a whole host of issues. I think Senators are aware of that. I hope we will not jeopardize all of this progress. I hope we will continue to have honest debate on the Mexico City policy in other fora, and there are opportunities for Senators, simply with bills that are directed to this issue, as opposed to amendments added to legislation in which we have put together the State Department authorization, the foreign assistance authorization, the Millennium Challenge Account, and a number of issues which are very important to the future of our country.

I will oppose the amendment. I ask other Senators to do so for the reasons I have given.

If I may engage in colloquy with the distinguished Senator from California, is there disposition that we may be able to proceed to an agreement on time for a vote?

Mrs. BOXER. We have spoken with the Senator's staff, and we have made a suggestion. They apparently are working on finding out if it is acceptable. I will, once there is a quorum call in place, explain the details.

Mr. LUGAR. I yield the floor.

Mrs. BOXER. 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. REID. 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. REID. Mr. President, just a few years ago I traveled to Nepal, a country with one of the highest maternal mortality rates in the world, certainly in Asia. More than 500 out of every 100,000 women in Nepal die from pregnancy-related complications compared to 7 out of every 100,000 women in the United States. Again, 500 women in Nepal die from pregnancy-related complications compared to 7 in the United States.

Nepal is not the only place where women are at such high risk. Every minute of every day at least one woman somewhere in the world dies from causes related to pregnancy in childbirth. Every minute of every day a woman dies from causes related to pregnancy. That is 600,000 women every year who die from causes related to pregnancy. I repeat for the third time, 600,000 women every year.

Our country offers hope to women around the world. Our support for international family planning programs spells the difference between life or death for women in developing countries. And family planning efforts prevent unintended pregnancies, save the lives of thousands of women and infants every year. Family planning also helps prevent the spread of sexually transmitted diseases.

Last summer, I traveled to South Africa: Kenya, Nigeria, and Botswana. The subject of AIDS and the terrible damage it has done to the African people became the focus of this trip. We did not want it to be the focus of the trip, but it became the focus of the trip. It overwhelmed everything that we talked about and saw. Africa has been overwhelmed by the AIDS epidemic. More than 20 million Africans have died from AIDS and more than 5,000 continue to die each day from this disease. It is 7 days a week. It does not matter if it is Thanksgiving, Christmas, or whatever holidays they might have. There are no vacations, no holidays. Seven days a week, every week of the year, more than 5,000 Africans die, and that number is going up, not down. They die from this disease we call AIDS.

In seven southern African countries, 20 percent or more of the adult population is infected with the HIV virus. In Botswana—and I would mention about Botswana, it is a democracy. It is a country that is based on the rule of law. It is really a fine country with great leaders. We stayed for a few days in Botswana. The infection rate is about 40 percent; that is, 4 out of every 10 people who live in Botswana are infected with the HIV virus. In other African countries, the HIV infection rates are higher among women than men.

As a result, family planning providers are the best source of HIV prevention information and services. But now, the Mexico City policy threatens our efforts to save the lives of women in Nepal, on the continent of Africa, and all over the world. President Bush reimposed the gag rule because he wants to decrease the number of abortions abroad. That is a worthy goal, but restricting funds to organizations that provide a wide range of safe and effective family planning services can lead only to more, not fewer, abortions.

Cutting funding for family planning diminishes access to the most effective means of reducing abortion. Research shows the only way to reduce the number of abortions is to improve family planning efforts that will decrease the number of unintended pregnancies. Access to contraception reduces the probability of having an abortion by more than 85 percent.

Of course, I do not support the use of a single taxpayer dollar to perform or promote abortions overseas, but that is what the law says. The law has explicitly prohibited such activities for 20 years, from 1973. Instead, I support family planning efforts that reduce both unintended pregnancies and abortions.

The Mexico City policy not only undercuts our country's commitment to women's health, it restricts foreign organizations in a way that would be unconstitutional in the United States. This policy violates a fundamental tenet of our democracy: freedom of speech. That is why my friend from California, the chief sponsor of this amendment, Senator BOXER, calls this a global gag amendment because that is exactly what it is. This policy violates a fundamental tenet of our democracy: freedom of speech.

Exporting a policy that is unconstitutional in the United States is the ultimate act of hypocrisy. Surely, this is not the message we want to send to struggling democracies that look to the United States for inspiration and guidance. My friend, the distinguished Senator from Nevada—from California, Senator BOXER—I wish she were from Nevada. She does a great job for Nevada, along with California and the rest of the country. Senator BOXER's amendment would ensure that U.S. foreign policy is consistent with American values, including free speech and medical ethics.

I support this legislation. I support this amendment and urge my colleagues to support this effort to protect and defend women around the globe.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWNBACK. 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. BROWNBACK. Mr. President, I rise to address the Boxer amendment being considered. I acknowledge the

passion and leadership of the Senator from California. I have always respected her thoughtful arguments. We have had some issues in agreement and some issues in disagreement. This happens to be one we are in disagreement but it does not reduce my acknowledging her skill and abilities and the heart she brings to each and every discussion she puts forward.

This is a straightforward and simple issue, one that everyone can clearly grasp. It is about the use of taxpayer dollars, Federal, U.S. taxpayer dollars to fund abortions overseas; do you agree or disagree with that.

Some say, yes, we should do that; other people say, no, I don't think we should use taxpayer dollars overseas to fund issues such as this. Others say, I don't think we should use taxpayer dollars to fund abortion because of their deeply held feeling they are aborting a child and they disagree fundamentally with that. We have a clear issue before the Senate.

I note the history behind the so-called Mexico City language. On January 22, 2001, when President George Bush was sworn in and put into office as President of the United States, in one of his first acts, he reinstated the Mexico City policy. I say ''reinstated''; this was a policy President Reagan put in place. It was in place during President Reagan's term in office, in place during President Bush I's first term in office, and immediately repealed when President Clinton came into office.

The policy simply states that it prohibits Federal taxpayers from funding foreign organizations that ''perform or actively promote abortion as a method of family planning in other nations.'' That is what the Mexico City language is: ''perform or actively promote abortion as a method of family planning in other nations.''

So the President is saying as part of U.S. policy that we will not fund private organizations, NGOs, that perform or actively promote abortion overseas.

That is the issue. That is the point of the issue. You can color it with a lot of stories, you can color it with a lot of rhetoric, but the issue to decide in this body is, do we want to use taxpayer dollars to fund abortions or promote abortion overseas.

As I note to people, there are primarily two grounds that people disagree. The first ground is as a moral objection. A number of people just disagree with the issue of abortion. It is probably the most difficult social issue today as a society. We debate it regularly. The issue is, is the young child a person or a piece of property.

Others look at this differently. Senator BOXER and I have different views on that particular issue. I think history will clearly point out the side I represent is accurate and true and is the side I hope ultimately all Americans will agree with, that we believe in the fundamental rights of a personhood and of dignity, of each and every individual, no matter how weak or helpless they might be. It is in the great traditions of the Democratic Party to support people in a difficult spot, and it should be that support for the weakest and the most vulnerable which clearly that child in the womb represents. That is No. 1 as an issue.

The second issue, should you use taxpayer dollars, taxpayers from California, from Missouri, from Kansas, from Indiana, wherever they might be, should we be using those to support a policy that funds abortion in Nepal and Africa or that supports organizations in various places around the world that want to either perform abortions or promote the use of abortion in that country and that society? A number of people would say yes, I am willing to use taxpayer funds to go do that. Probably more people in the country, I think if you would poll people in the United States, would say no. No. 1, I think you spend too much overseas the way it is right now. No. 2, I disagree with you either paying for abortions overseas or supporting organizations that are trying to promote abortion overseas. I think that is a bad use of taxpayer dollars.

Those are the fundamental arguments that people bring forth in looking at the Mexico City policy. I think the Mexico City policy is a very commonsense policy that has been put forward by President Reagan, put forward by President Bush, George Bush No. 1, President Bush No. 2 as well. It has been in law since 1984, as an administrative act by the President. It is based in part on the belief that U.S. taxpayers should not be forced to subsidize or support organizations that perform or promote abortions overseas for family planning programs.

I have noted some of the specific arguments why that takes place. I want to take on one of the indirect arguments that a number of people raise. Some people argue incorrectly that Federal tax dollars would not have to be used for the actual abortion but could still be used to support the organization's other activities. This argument fails to properly understand the fungibility of money. Once you give money to a organization, it can use that for a broad range of causes. It can say, Look, we don't use this money for abortions or promoting abortions because we will use it in this sector, sector A of our organization. But in sector B of our organization we do fund abortions and we do promote abortions.

This money can be used to subsidize the overhead operation of the organization, it can be used to subsidize a mailing, and while this portion doesn't support abortion, there is also an additional mailing inserted that does. It can be used in the fungibility of the dollars. That is why we tried to put forward—why President Bush has tried to put forward a clear firewall on this set of funds.

It is not that the United States should not try to do good overseas, because we should and we are. I applaud this President for his efforts in global HIV, on the Millennium Challenge Account, where we are trying to help people in other countries to get out of these debilitating, horrific situations of HIV and its spread, of trying to give them some economic opportunity. The President put those forward. I strongly support those and hope those will clear through the Congress.

But here is one: Why would we take something so controversial, so counter to so many Americans' fundamental beliefs, fundamental thoughts, and say to the American taxpayer: We are going to use your dollars to do this, and, yes, we know you disagree with it on moral grounds and, yes, we know you disagree with it on fiscal grounds, yet we are going to go ahead and do that?

If we are so concerned about the individual overseas, and we should be, why not put the money in something we all agree with that is a terrible problem like global HIV or solving issues dealing with malaria or other diseases that are horrific but that do not get the number of research dollars they should for developing cures for them because they are in countries where people do not have enough resources to be able to buy the pharmaceutical drugs that would cure them? There are so many better ways you could spend this type of money than in something so controversial and so counter to what America stands for.

I think it is important for us to vote against the Boxer amendment.

There is a final reason here. I want to hit this point. There is another one as well. The final reason here is that the President has stated clearly he will veto the bill if this language that funds overseas abortions or the promotion of abortion is included in this bill. If that is in this bill, the administration will veto this bill.

The chairman and the ranking member have worked very hard to put a bill together to do the authorizing on authorization instead of appropriations so we can get a bill through. Rather than having it vetoed, wouldn't it be wise for us to go ahead and get this through?

One of the reasons we were criticized, and I think rightfully so, in the last Congress was that we didn't get anything done. There was a major Energy bill, didn't get it done; a major Medicare bill, didn't get it done. What the chairman and ranking member are trying to do here is pass a major State Department authorization, foreign assistance. We are trying to get it done and we can get it done. We can finish this and we can get it done. Yet you are trying to insert language to kill the whole bill and the whole process. On top of the controversy for using the funds for these purposes, the controversy about the whole moral issue of abortion, you are going to cause the veto of a bill over this issue.

I do not think that is wise legislating on our part. I do not think it is the appropriate way for us to go. I think the

American people would look at that as well and say: You know, this isn't a life-or-death issue on the point of getting this language.

Some would contend it is. If that is the case, let's make a malaria cure a portion. That is a life-and-death issue. But you are going to kill a bill by including such controversial language in it.

I urge my colleagues to reject this attempt to overturn President Bush's clear language, the clear policy that I think represents, really, what the American people want to see us do.

With that, I would like an opportunity—I think there are others who are going to speak on this bill—to possibly be able to rejoin the debate to answer some of the points that might be put forward.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. LUGAR. Madam President, just for the sake of explanation to Senators of what is about to transpire, I am going to move to table the amendment that has been offered by the distinguished Senator from California. Senators will have a chance to vote. I will call for the yeas and nays, so it will be a recorded vote. In the event that Senator BOXER's amendment is not tabled, then I will move that we adopt the amendment by voice vote.

Mrs. FEINSTEIN. Mr. President, I rise today to support Senator BOXER's amendment to the State Department authorization bill to eliminate the so-called global gag rule to lift the restrictions for U.S. assistance to international family planning providers included in this legislation.

There have been few issues in recent years that have been more debated. I have come to the floor on several occasions in years past to express my deep concern for the global gag rule. Year after year, we have come to the floor to try to overturn the rule.

Under the leadership of both Democratic and Republican Presidents, and under Congresses controlled by Democrats and Republicans alike, the United States has established a long and distinguished record of world leadership in the area of international family planning and reproductive health issues.

But the global gag rule places very limiting restrictions on U.S. assistance to international family planning organizations. Overseas family planning providers would be barred from using their own money to even provide information to patients about the availability of a legal abortion if these providers receive any funding or even access to contraceptives from the U.S. Government.

International family planning providers are being faced with a very difficult choice; either give up desperately needed U.S. funding or edit the information about reproductive health that providers share with the women they are trying to help. Either choice will hurt some of the poorest women in the world.

Family planning providers don't just lose funds under the global gag rule. They also lose donated contraceptives. The United States is the most important donor of contraceptives to the developing world, providing about 37 percent of all donations at a value of $45 to $55 million annually.

I was disappointed that one of President Bush's first major policy actions, on his first business day in office, January 22, 2001, was to reinstate the global gag rule.

I think it is important to point out that Senator BOXER's amendment does not change any laws about abortion. In fact, this amendment only allows for funding to organizations that provide services that are legal in their own country and also legal in the United States.

Beginning with the reinstatement of the gag policy in January 2001, several organizations working in the developing world that have lost access to much needed funding or contraceptives, including the International Planned Parenthood Federation, IPPF. IPPF is made up of more than 150 agencies working in 180 countries and is the largest provider of reproductive health services in the world.

Between 2001 and 2003, this organization has lost more than $8 million in U.S. Government funds—mostly for contraceptive supplies.

Some country-specific examples to demonstrate the impact of the global gag rue include: Ethiopia where the Family Planning Association lost $56,000 in contraceptive supplies; Zambia were the Planned Parenthood Association lost $137,092 in contraceptive supplies; Cote d'Ivoire where the Family Planning Association lost $186,000 in contraceptive supplies which eliminated contraceptive services from nearly 50 percent of their 92 distribution points; Congo where the Family Planning Association lost $17,000 in U.S. assistance and, as a result, they had to eliminate programs that served 15,739 clients; and Kenya where the Family Planning Association had received an average of $580,000 per year to fund its clinics. Three urban clinics serving 56,000 poor and underserved clients closed.

The amount of funding lost may not sound like much to you. But in the developing world, every dollar, literally, counts.

And every woman deprived of access to education or contraceptive supplies risk an unwanted pregnancy.

Access to contraceptives is not only about family planning. It is about reproductive health. And it is also about protecting people from HIV/AIDS.

Much of the developing world is struggling with HIV/AIDS. The loss of U.S. funds has reduced the capacity of many family planning providers to also address the HIV/AIDS crisis.

In Ghana, for example, 697,000 Planned Parenthood Association clients will lose access to not only family planning services but also to voluntary testing and counseling for HIV/AIDS as well as AIDS prevention education programs.

With the world population now at more than 6 billion, and estimates of this figure growing to 12 billion by 2050, we must give couples and women the resources necessary to plan the number and spacing of their children.

The vast majority of this population growth will occur in the developing world, in countries that don't have the resources necessary or the infrastructure to provide for basic health care.

Limited access to family planning services results in high rates of unintended and high-risk pregnancy and maternal deaths.

Every minute around the world, 190 women face an unplanned or unwanted pregnancy. About 110 women experience pregnancy-related complications and 1 woman dies. This can be avoided.

I would ask the women of America, as they consider their own reproductive rights, to consider the aim and intent of a policy in which the reproductive rights of American women are approached one way and those of women in the developing world another.

Perhaps worst of all about the global gag rule is that it is a cynical ploy by those who would challenge domestic reproductive rights but are too fearful of the political repercussions. So, instead, they practice the divisive politics of reproductive rights on the poor, sacrificing the lives of women and children overseas, where they think we are not paying attention or do not really care.

I truly believe that the only way to help women in the developing word better their own lives and the lives of their families is to ensure that they have access to the educational and medical resources necessary to make informed decisions.

I urge my colleagues to join me in supporting this amendment.

Ms. SNOWE. Mr. President, I rise in support of the amendment offered today by Senator BOXER to repeal the global gag rule.

We take up this debate once again during the consideration of the State Department authorization, a bill which governs our country's federally sponsored foreign aid programs. Each year, we have to fight for the adoption of this amendment which would bolster these international assistance efforts, and yet each year we find ourselves here again debating this same issue.

There is no question that U.S. population assistance is of critical importance to our international aid efforts. Population assistance is the primary

deliverer of health education, health care, and prenatal care to millions of women in developing countries. But beyond the social and physiological aid that this program brings to these nations, there is a real economic benefit as well. According to USAID, studies in several countries have shown that for every dollar invested in family planning programs, governments save as much as $16 in reduced expenditures in health, education, and social services. This is not only an investment in the health of women, and their children, and their families but for whole nations and their ability to stabilize and grow stronger.

There is also no question that U.S. population assistance efforts in developing countries have been successful, as demonstrated by the fact that the average family size in countries that have received U.S. population assistance has decreased from six children to four. AID assistance has increased the use of contraceptives in developing countries from 10 percent of married couples in the 1970s to 50 to 60 percent today. This not only allows for family planning which helps ensure healthier pregnancies, resulting in healthier babies, but is critical to our efforts to fight infectious diseases like AIDS that are plaguing many Third World countries.

The discussion of contraceptives leads me to a very critical point . . . the issue before us today is not abortion, because current law already prohibits the use of any U.S. funds for abortion-related activities. This is a crucial fact that needs to be on record. Under the Helms amendment of 1973, U.S. funds cannot be used for abortion-related activities and have not been permitted for that purpose for 30 years. I support that law as an important guarantee that our international family planning programs stay apart from domestic debates on the issue of abortion.

At the hear of the issue we are debating today is the so called Mexico City policy because it was at the 1984 U.N. Population Conference in Mexico City that the Reagan administration adopted this policy. Under the Mexico City policy, the Reagan administration witheld international family planning funds from all groups that had the slightest involvement in legal abortion-related services even though they were paid for with their own private funds. This was done despite the fact that similar restrictions were not placed on funding programs run by foreign governments that related to legal abortions. Quite appropriately, this policy is also referred to as the international ''gag rule'' because it prevents organizations from even providing abortion counseling or referral services.

The need for the passage of this amendment is in part about leadership. The United States has traditionally been the leader in international family planning assistance. This has been the case ever since this issue rose to international prominence with the 1974 U.N. Population Conference in Bucharest. At that time, a great number of the world's developing countries perceived family planning as a Western effort to reduce the power and influence of Third World countries. However, in the years since, the need and importance of family planning has been recognized and embraced by most developing nations.

If, as a country, we believe in volunteerism in family planning—and we do—then we should maintain our leadership. Because of our leading role in international family planning, we have unrivaled influence in setting standards for family planning programs. A great number of other donors and recipient countries adopt our models in their own efforts.

According to the Center for Reproductive Law and Policy, the Mexico City policy penalizes 56 countries whose nongovernmental organizations—NGOs—receive family planning assistance funds from the United States. NGOs are prohibited not only from providing abortion-related services but also counseling and referrals regarding abortions.

That is the policy; let's consider the real effect on people. According to the Alan Guttmacher Institute, about 4 in every 10 pregnancies worldwide are unplanned, and 40 percent of unintended pregnancies end in abortion. Knowing this, the net effect of the Mexico City policy on these 56 nations is to limit or eliminate critical family planning work that has a very real impact on the quality of life. Moreover, the absence of family planning increases the instance of the one thing that the advocates of the Mexico City policy are most opposed to—abortion.

The bottom line is, family planning is about health care. Too often, women in developing nations do not have access to the contraceptive or family planning services they need because contraceptives are expensive, supplies are erratic, services are difficult or impossible to obtain, or the quality of care is poor. In a report by the Population Action Institute it was estimated that about 515,000 women die each year in pregnancy and childbirth, or almost one death every minute, and millions more women become ill or disabled. In addition, an estimated 78,000 women die every year from illegal and unsafe abortion and thousands more are injured. How many women die because the access to these services is limited?

Quite simply, the Mexico City policy is bad public policy. That is why year after year we fight for this amendment and some years we win in committee and other years we don't, yet we still fight this important fight. The Mexico City policy not only limits discussion, counseling, and referrals for abortion, but it also limits the ability of organizations, in at least 59 nations, to carry out needed family planning work.

We must remember that family planning is about—just that—planning one's family. By spacing births at least 2 years apart, family planning can prevent an average of one in four infant deaths in developing countries. Family planning provides access to needed contraceptives and gives women worldwide the ability to properly space out their pregnancies so that they can have healthier babies, which will lead to healthier children and healthier nations.

Mr. President, I urge my colleagues to support the amendment before us and ensure that international organizations are no longer forced to limit or eliminate critical family planning work that has a very real impact on the quality of life of women and families worldwide.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Parliamentary inquiry: Is it appropriate to ask unanimous consent that is how we proceed; that is, a voice vote will follow if, in fact, the amendment is not tabled?

The PRESIDING OFFICER. The Senator cannot order a voice vote by unanimous consent.

Mr. BIDEN. That is what I thought. That is why I asked the question. The amendment can be agreed to; is that possible?

The PRESIDING OFFICER. By unanimous consent.

Mr. BIDEN. At the time? I can't ask that now?

The PRESIDING OFFICER. The Senator is correct. The Senator can ask that the amendment be agreed to now, but it must be by unanimous consent.

Mr. BIDEN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BIDEN. The Senator from Indiana is about to make a motion to table the Boxer amendment. It has been stated verbally that if that tabling motion fails, then we would move to a voice vote to accept the Boxer amendment. Is there any way in which to get a unanimous consent agreement that is how we would proceed?

The PRESIDING OFFICER. The Senator may ask that the amendment be agreed to by unanimous consent but cannot ask for a voice vote.

Mr. BIDEN. I thank the Chair. Words make a difference.

I ask unanimous consent that if, in fact, the Boxer amendment is not tabled, the amendment be agreed to.

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

Mr. BIDEN. I thank the Chair and apologize for the clumsy way in which I phrased the question.

I commend Senator BOXER for her leadership on this legislation. I cosponsored this bill in the last Congress and I am proud to support it again.

The Mexico City policy, also known as the ''global gag rule,'' is bad policy and a bad idea.

Let us be clear what this issue is not about. The issue is not about abortion—although it is often portrayed as

such by the proponents of Mexico City. Rather, the provision is about free speech and democratic values.

Longstanding law—a law authored by former Senator Jesse Helms—already prohibits the use of U.S. funds to perform or promote abortions.

Let me repeat that. Current law, on the books for nearly three decades and authored by our former colleague Jesse Helms, already bans the use of U.S. taxpayer dollars to perform or promote abortions. Any assertion to the contrary is false.

The ''Mexico City'' policy goes much further: it demands that foreign, nongovernmental organizations which receive U.S. population assistance funds agree that they will stop using their own funds to discuss with their own governments how abortion will be regulated.

No such restrictions would be imposed on U.S.-based organizations, for a simple reason: they would be unconstitutional under the First Amendment.

Nor are such restrictions imposed on foreign governments. If they were, then U.S. assistance to countries such as Israel might be in danger, because the Israeli government uses its own funds to pay for abortions.

In my view, the Mexico City policy is anti-democratic, because it attempts to silence foreign recipients of U.S. funds.

It is the policy of the United States to advance the cause of democracy by promoting the values which we hold dear—such as freedom of speech, freedom of association, and freedom of the press.

The Mexico City policy flies in the face of these fundamental values by attempting to restrict the speech of recipients of U.S. funds.

This is a gag rule, pure and simple. It restricts speech. And for the life of me I cannot understand why anyone—Republican or Democrat—would support a provision that would violate the First Amendment if applied to U.S.-based organizations.

Of course, foreign citizens and organizations do not have constitutional rights. But just because we can legally apply this restriction does not mean that it is good policy. And I do not believe that it is.

I urge my colleagues to adopt the amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank all Senators for their assistance in this procedure.

I move to table the Boxer amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. 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 Georgia (Mr. MILLER) 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 result was announced—yeas 43, nays 53, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—43

Alexander	DeWine	Lott
Allard	Dole	Lugar
Allen	Domenici	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Nickles
Breaux	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Chambliss	Gregg	Sununu
Cochran	Hagel	Talent
Coleman	Hatch	Thomas
Cornyn	Hutchison	Voinovich
Craig	Inhofe	
Crapo	Kyl	

NAYS—53

Akaka	Dorgan	Murkowski
Baucus	Durbin	Murray
Bayh	Feingold	Nelson (FL)
Biden	Feinstein	Nelson (NE)
Bingaman	Harkin	Pryor
Boxer	Hollings	Reed
Byrd	Inouye	Reid
Campbell	Jeffords	Rockefeller
Cantwell	Johnson	Sarbanes
Carper	Kennedy	Schumer
Chafee	Kohl	Smith
Clinton	Landrieu	Snowe
Collins	Lautenberg	Specter
Conrad	Leahy	Stabenow
Corzine	Levin	Stevens
Daschle	Lieberman	Warner
Dayton	Lincoln	Wyden
Dodd	Mikulski	

NOT VOTING—4

Edwards	Kerry
Graham (FL)	Miller

The motion was rejected.

Mr. BIDEN. Madam President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the amendment is now agreed to.

The amendment (No. 1141) was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, we have made progress on our bill. There are three amendments that will require some debate—but that will inevitably be accepted—still lined up for this evening.

I encourage—and I am certain the distinguished ranking member would join me—all Members who want to resolve their amendments to please do so this evening. We will be here. We have a good opportunity to work through almost all of the known amendments this evening.

Having said that, the leader has told me there will be no more rollcall votes and authorized me to make that announcement once again, We will proceed on this bill as long as it is productive. We hope Senators will come to the floor, offer their amendments, and have them resolved.

Mr. BIDEN. Madam President, I share the view of my friend from Indiana. I think of the 20-some amendments out there, 99 percent of them are able to be worked out. Many of them will be accepted with a few small changes. I encourage if not the Senators, the staffs who are authorized to come to the floor and work them out.

Further, it is my understanding, regarding the distinguished Senator from New Jersey, we should proceed on an amendment he may withdraw. However, he is prepared to speak to that amendment. He wants to do that. I promised him I would try to get him up next. I am not asking unanimous consent but I am talking long enough so his staff can hear this and get him back over here. He is ready to go.

Mr. LUGAR. I will assist the Senator by indicating I suggest an order of Senator BROWNBACK offering his amendment, then Senator LAUTENBERG, and then Senator ALLEN so the Senators would have some idea of the batting order. Senator BROWNBACK, I understand, is prepared to go with an amendment on Iran that Senator BIDEN and I have studied. Then we would have Senator LAUTENBERG immediately following.

Mr. BIDEN. Mr. President, I will be happy to accede to that in light of the fact that Senator BROWNBACK is here to go and Senator LAUTENBERG is not.

Mr. REID. That was just information; it was not a unanimous consent request.

We have been on this bill for just a few hours. I know, having managed a bill or two in my day, how important it is for the two managers of this bill to get their legislation passed.

Everyone has to stop and pause a little bit. The last time this bill came up we spent 2 weeks on it. We are not going to finish this bill in 3 hours. Everyone should understand that. I know there are 20 amendments and 90 percent of them will be agreed to. There may be other amendments that the two managers are not aware of. It is important we move this long and we are certainly not trying to stall this legislation.

However, I apologize to Senator LAUTENBERG because I thought we were going to do no more tonight. We have a joint function that Senators are to attend tonight and I told Senator LAUTENBERG we would not be doing any more tonight. So that is my fault. I did not know the manager would try to do other amendments. We have a lot of amendments that people want to offer but I didn't believe tonight that was going to happen.

I told the two leaders I would work during the night to find out some indication of what we would have tomorrow but in the few minutes since I spoke with the distinguished majority leader there are people who want to offer amendments. The vast majority of those amendments are related to this bill; they are not unrelated. Senator MURRAY has indicated she wants to offer an amendment on unemployment benefits. We want to make sure she has an opportunity to do that.

I don't want to rain on the parade other than to say this bill is not going to be finished early tomorrow.

Mr. BIDEN. I want to make clear what I am saying. We already know there are 20-some amendments out there. I believe we can settle almost all of those amendments by negotiation without long discussions on the floor tonight or tomorrow or any time. I have no illusions, having been here a long time—even longer than the assistant leader—that we are going to get this thing done quickly, nor that we may not have nongermane amendments that may be meritorious and may take a long time. I understand that.

All I am saying is what we do know is this: Let's get it done because most of it is not nearly as controversial as it appears to be. That is the point I am trying to make. Not that I am making any predictions. There are two things I never predict. One is the weather and the second is what the Senate is going to do. So I am not predicting. I am saying we know what we have before us; let's get it done and we can move on tomorrow or the next day or next week or next year to do whatever comes up.

I yield the floor.

Mr. REID. Mr. President, I understand this bill is very important. The two managers have both talked to me how important they think it is, and I acknowledge it is important. We will try to help them any way we can to get this bill passed.

The good news is Senator LAUTENBERG has heard us talking and he is on his way back. That is an amendment that will be disposed of tonight. I look forward to working with the two managers tomorrow to see what we can do to help expedite this legislation.

Mr. LUGAR. I thank the distinguished Senator for mentioning Senator LAUTENBERG and for obtaining his attention so he will be back and we can proceed.

I am prepared to yield the floor, and I understand Senator BROWNBACK is prepared to offer an amendment.

AMENDMENT NO. 1145 TO AMENDMENT NO. 1136

Mr. BROWNBACK. Mr. President, I have an amendment that I call up for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 1145.

Mr. BROWNBACK. 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 provide support for democracy in Iran)

At the appropriate place in the amendment insert the following

SEC. . IRAN DEMOCRACY ACT.

(a) FINDINGS.—The Congress finds the following:

(1) Iran is neither free nor democratic. Men and women are not treated equally in Iran. Women are legally deprived of internationally recognized human rights, and religious freedom is not respected under the laws of Iran. Undemocratic institutions, such as the guardians council, thwart the decisions of elected leaders.

(2) The April 2003 report of the Department of State states that Iran remained the most active state sponsor of terrorism in 2002.

(3) That report also states that Iran continues to provide funding, safe-haven, training, and weapons to known terrorist groups, notably Hizballah, HAMAS, the Palestine Islamic Jihad, and the Popular Front for the Liberation of Palestine.

(B) POLICY.—It is the policy of the United States that—

(1) currently, there is not a free and fully democratic government in Iran,

(2) the United States supports transparent, full democracy in Iran,

(3) the United States supports the rights of the Iranian people to choose their system of government; and

(4) the United States condemns the brutal treatment, imprisonment and torture of Iranian civilians expressing political dissent.

Mr. BROWNBACK. This concerns providing support for democracy in Iran and has been previously filed and been amended.

I worked closely with Senator LUGAR, chairman of the Foreign Relations Committee, and Senator BIDEN, the ranking member. Together we have worked out language that we have all agreed to on an important issue of democracy and promotion of democracy in Iran.

This is a very important issue to the country and to the people of Iran. I am very thankful to the chairman and to the ranking member and their staffs for working together to get this language put together, language that is very strong, quite good, and makes a very positive statement.

I rise to discuss this important issue. It is our policy toward Iran. As the President rightly stated, Iran is a member of the axis of evil. The terrorist atrocities it spreads around the world are equalled by the horrific atrocities committed against its own people.

Today marks the fourth anniversary of the first major Iranian protest against a government that promised reform and utterly failed. I will show a picture to my colleagues of that protest 4 years ago, 1999, July 9—4 years ago today. The students, protesters, were out, thousands protesting the Government of Iran and saying they desired freedom.

This is a scene of that. It is being replayed again today. Protesters are out in Iran, even though the regime is doing everything they can to stop it, having quasi-police groups—really, thugs—going around and beating people with chains. They are putting people in prison. But people continue to protest.

This is a picture of a protest taking place 2 weeks ago, not just in Tehran now but protests are taking place all over the country, as the fire of democracy and liberty continues to burn aggressively among the people of Iran.

These are people who are pro-American, as well, broadly throughout Iran. They support the United States and our stand for freedom and democracy. It is important we stand with them.

The fact we continue to see protests in Iran despite very harsh treatment is showing the world that these protests are growing and will eventually lead to real change inside Iran. It is very appropriate it is today that we are offering this amendment to the State Department authorization bill which declares firmly that America supports real democracy in Iran. What is there now is not democracy.

It is a very basic message. It is extremely important that this body send a message to the Iranian people, and send it today, that we support their struggle for freedom.

This is not just an altruistic gesture of support. Supporting the forces of democracy in Iran is in the direct security interest of America. As I am sure many of you have heard, there are new reports about additional nuclear weapons facilities in Iran—these are based on military complexes and there can now be no misunderstanding of the intent behind this technology. Estimates are that Iran could have nuclear weapons as early as 2005.

Also, Iran has just confirmed that it has successfully tested a midrange missile, the Shahab-3, which is capable of hitting Israel, parts of Saudi Arabia and Iraq, where many of our troops are stationed.

This means that Iran could have nuclear weapons—and the means to deliver them to hit us and our allies.

Clearly, this is a bad situation which is growing worse by the day. So, why, in this context, would we shy away from supporting pro-democracy forces in Iran that want to bring the rule of law, respect for human rights and an end to support for terrorism to their country?

Some have said that if the U.S. supports the protestors, we will be bound to intervene militarily. These people have not paid attention to the unique situation inside Iran or the fact that Iranians don't want U.S. military intervention but, rather, strong moral and political support.

Young people make up nearly 70 percent of the country—and they are taking it back from the mullah minority. The Iranian people are a proud, strong, and independent people. They do not need, nor do they want, an outside military force to come into their land.

They will handle this matter themselves. They have already begun to do so. This does not mean that the military option is off the table. America reserves the right to protect its people and innocent civilians from a nuclear threat or further Iranian-backed terrorists, but this is a defensive option.

To be honest, America hopes that the Iranian people change their regime themselves, and the hesitancy you see within America's foreign policy circles with regard to Iran comes largely because there is such hope for internal change, where there was none in Iraq or Afghanistan.

There is no division in the U.S. Government about the fact that Iran is a threat to its own people and certainly to Americans. The Iranian people and the Iranian regime alike should know that we are united and resolute in our understanding of what Iran is doing. We will not allow Iran to spread its corruption throughout the region.

As President Bush so clearly stated in his State of the Union Address this year:

> In Iran, we continue to see a government that represses its people, pursues weapons of mass destruction, and supports terror. We also see Iranian citizens risking intimidation and death as they speak out for liberty and human rights and democracy. Iranians, like all people, have a right to choose their own government and determine their own destiny—and the United States supports their aspirations to live in freedom.

That is what the President, stated in the State of the Union Address of January 28, 2003.

Recently, the President praised the Iranian people who kept up protests for over a week in the face of government sponsored thugs who beat innocent women with chains. The President called these protests ''heroic'' and indeed they are.

Just as it was an important rhetorical step for President Reagan to dub the Soviet Union ''an Evil Empire,'' so too it is important for us to recognize the current regime in Iran for what it is—an illegitimate, ruling elite that stifles the growth of genuine democracy, abuses human rights and exports terrorism.

It is clear by the Iranian regime's treatment of its own people in their attempt to be heard, that Iran is no democracy.

After all, it is the State Department's own report that classifies Iran as the largest state sponsor of terrorism. Do we really believe this is the will of the entire Iranian population? If so, we are saying that all Iranians are terrorists. This is wrong, and America must make it clear that we see the difference between the Iranian regime and the Iranian people—and we are supporting the people.

You can't call a country that screens the candidates a democracy. You can't call a government that tortures and kills its people openly a democracy. You can't call a country that refuses to enforce the laws that the screened, elected officials pass a democracy. All this is currently going on under Iran's so-called reformers.

I want to show how the reformers were elected into office. I will show a chart so my colleagues can easily see how we do get to the government that is currently in place in Iran. Seven years ago President Khatami was elected by the people. But how did he even get on the ballot? I want to show that, and also make some statements about his election.

For people to be running as candidates in Iran today, they have to go through the Council of Guardians. This is six members appointed by the Supreme Leader and six by the judiciary. The Supreme Leader is appointed by the council as well and is appointed for life. Khamenei, Supreme Leader, appointed six and six by the judiciary. Then all the candidates running for President, Assembly of Experts, 86 clerics elected for 8-year terms, and the Parliament, 290 members elected for 4-year terms, all these candidates have to be vetted by this 12-member council, so you can't get on the ballot unless you clear through the 12-member council for any of these three—the Parliament, the Assembly of Experts, or the President. You can't get on the ballot unless you clear through these 12 people, 6 appointed by the Supreme Leader who is appointed by them for life, never stands for election in front of the people, and 6 appointed by the judiciary. This is not a free election.

What about Khatami's election to President? He was elected for 4 years, for a 4-year term initially. This was 7 years ago. In his initial attempt he was elected. He was voted on, overwhelmingly favored by the people as the most reformist-minded candidate that the Council of Guardians would even let on the ballot. Over 60 percent of the people say: This is our guy because he is the most reformist, open-minded of the group, even though he was not. And it turned out that he was exactly what the Council of Guardians wanted: Good face, looks a little friendlier, gives the people a way to voice their thoughts. But he did not reform. He did not bring democracy. He did not bring human rights. He did not bring rights to women within the country. And he kept the country continuing its movement toward terrorism.

Even if you take all the power of these elected officials—so-called elected officials—they don't have the power over foreign policy, over the military, or over the Treasury. That continues to be held by the Supreme Leader and the Council of Guardians. So most of the power isn't even in the people who are so-called elected.

This is not a democracy, and that is why the people continue to protest—because they do not get to pick their own leaders and they want to pick their own leaders.

I want to show you what has taken place inside Iran, as a country, and why there is so much discontent, and why people are saying: Down with the President of Iran. Down with the Council of Guardians. They are so actively willing to protest and risk their own lives, and risk being arrested and beaten.

One thing I want to point out, too, these protests that have been taking place in the last couple of weeks, several sons and daughters of parliamentarians have been arrested as protesters. They are saying: Look, this government is not reform minded and we, as children of the parliamentarians, are saying this is not reform. And they have been arrested. They see the fallacy of the system, that it isn't working.

Look at this long-term trajectory pattern that Iran is on since 1978. Since the last government was thrown out, the Shah, and the protests were taking place, in 1979, what has happened to Iran? It was taken over by the ruling Mullahs, the Ayatolla at that time. They took captives of U.S. Embassy personnel for over 400-some days. Look what has taken place. Per capita, GDP is 20 percent lower today than in 1978 in Iran. There is widespread corruption, which was a key contributor of the 1979 revolution. Youth unemployment exceeds 30 percent. There has been a huge population explosion. Fifty percent of the population is under age 20—50 percent of the population.

There are religious legitimacy problems, persistent challenges to the Supreme Leader's religious credentials, and most Grand Ayatollahs do not approve of the Supreme Leader's doctrine on religious matters.

So this is really fomenting a situation. All we are doing with this amendment, which has been agreed to, and has strong language, is saying this is an illegitimate government; that we should and we do support true democracy in Iran and the right of the people to actually choose their leadership in Iran.

I think it is one of the most important things we can do. We need to show clear moral support to the people who are risking their lives today on the streets, across the country of Iran.

I hope we can get this through, that we can express our clear support to the Iranian people. This will be a powerful statement to the people protesting today.

I hope we can agree to this yet this evening.

I thank the chairman for allowing me to bring it up on the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Kansas for his research, for his leadership on this issue, and for the amendment he has offered.

On our side, we are prepared to accept the amendment.

Let me inquire of the distinguished ranking member of the committee if he is prepared to accept it on the Democratic side.

Mr. BIDEN. Yes. We are prepared to accept the Brownback amendment.

Mr. LUGAR. Thank you very much.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 1145) was agreed to.

Mr. LUGAR. I move to reconsider the vote.

Mr. BROWNBACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROWNBACK. Mr. President, I thank the chairman and ranking member very much for allowing us to put this forward. I think it is the very strong and right thing for us to do, and it is the right time.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 1135

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 1135.

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

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

The amendment is as follows:

(Purpose: To provide justice for Marine victims of terror)

At the appropriate place in the amendment, add the following:

SEC. ___. JUSTICE FOR UNITED STATES MARINES ACT.

(a) SHORT TITLE.—This section may be cited as the ''Justice for United States Marines Act''.

(b) AMENDMENT.—Section 1404C(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603c(a)(3)) is amended by striking ''December 21, 1988, with respect to which an investigation or'' and inserting ''October 23, 1983, with respect to which an investigation or civil or criminal''.

Mr. LAUTENBERG. Mr. President, I rise to offer an amendment which we are calling Justice for the United States Marines. The amendment would make sure that the families of the 241 U.S. marines who were killed by terrorists in 1983 have equal access to assistance from the Federal crime victims fund.

In 1996, I authored a law that enabled terrorism victims' families to receive assistance to file suit against foreign sponsors of terror. This enabled families to receive judgments for those countries that aided terrorists in killing their children.

My amendment makes two small changes in the current Victims of Crime Act that would allow these families the same rights as other terror victims. Right now, technicalities in the current law would deny these rights to Marine families who lost family members in the tragic barracks bombing in Beirut, Lebanon, in 1983.

My amendment is simple. First, it changes the date of eligibility in the current law to terrorist acts that occurred ''on or after October 23, 1983''—the day of the vicious attack on the U.S. Marine barracks in Beirut.

Second, my amendment clarifies an ambiguity in the original law about the type of cases that are eligible for Federal funds.

On October 23, 1983, a suicide bomber affiliated with Hezbollah detonated a truck full of explosives at a U.S. Marine barracks located at the Beirut International Airport. Shortly after this took place, I was there and saw what remained of the building. It was almost totally destroyed. Two-hundred and forty-one U.S. marines were killed that night, and more than 100 were wounded the same day. They were part of a contingent of 1,800 marines who had been sent to Lebanon as a part of a multinational force to help separate warring Lebanese factions.

The loss to those families of these victims was enormous. These marines were killed by terrorists as they slept in their barracks. Terrorists are cowards. The marines didn't even have a chance to fight back.

But now the families of these marines are able to fight back against the sponsors of this terrorist act through our judicial system. On May 30, 2003, the United States District Court for the District of Columbia found Iran liable for the Beirut Marine Corps barracks bombing. The court found that Iran sponsored this terrorist act by Hezbollah, and was, therefore, accountable to these families.

This trial now proceeds to the damages phase. The court wants to use over a dozen ''special masters'' to hear the damage claims of the participating victims' families. Each special master will hear approximately 15 cases.

The court has requested the use of the crime victims fund in order to pay for the cost of employing these special masters. Terror victims are generally permitted to make use of this fund but a technicality in the law is preventing these families from utilizing this resource.

The technicality is that the law now says the crime victims fund can be used to assist victims of terrorist acts occurring on or before December 21, 1988. The problem is that the Marine barracks was bombed on October 23, 1983—approximately 5 years earlier. We need to change the date so the U.S. Marine families can see justice done.

In finding Iran liable for this horrible terrorist act in Beirut, the judge said the following, which I want to read to the Senate. He said:

No order from this Court will restore any of the 241 lives that were stolen on October 23, 1983. Nor is this Court able to heal the pain that has become a permanent part of the lives of their mothers and fathers, their spouses and siblings, and their sons and daughters. But the Court can take steps that will punish the men who carried out this unspeakable attack, and in so doing, try to achieve some small measure of justice for its survivors, and for the family members of the 241 Americans who never came home.

I would also like to share with my colleagues the poignant words of one victim's family member after the court's recent ruling. Captain Vincent Smith, from Camp Lejeune's 24th Marine Amphibious Unit, was one of the service members killed in the bombing.

After the court's ruling, Captain Smith's sister said:

I think the whole family feels that the ruling gives us a sense of justice after all of these years. Finally, someone has been named a guilty party . . . It's a huge sense of justice to say that the government of Iran is guilty.

My amendment will allow the cases of these U.S. Marine families to move forward so they can hold the sponsors of this terrorist act accountable.

Since September 11, 2001, this Congress has worked hard to provide justice to the families and communities affected by terrorist acts. It is critical that we also devote attention to the losses incurred by many American families in earlier terrorist incidents.

I urge my colleagues to vote for this amendment in order to extend justice to the families of the 241 Marines killed in the Beirut bombing.

We need to teach sponsors of terror that they will be held accountable. A vote for my amendment will help further this lesson by bringing the perpetrators of this 1983 terrorist act to justice.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I have listened very carefully to the distinguished Senator from New Jersey. What is the desire of the Senator? Does he desire to proceed to a vote on his amendment?

Mr. LAUTENBERG. I would like to see the amendment accepted. I would like to have a vote on this amendment, unless, of course, the amendment is acceptable to both sides.

Frankly, I think it is a good amendment. It does justice in some measure to the memory of those who were killed. They were there as a peacekeeping force—1,800 of them. A quarter of the force was killed in that single incident. The crime victims fund is a fund that is there to assist—not to provide damage awards to the people but to help them discover the evidence that is necessary. The fund has a few hundred million dollars which would assist these 15 special masters by providing them per diem so they can travel and get the details from these families, as they must do in order to have a sensible trial for damages.

Mr. LUGAR. Mr. President, I appreciate that thought of the Senator. I indicate the amendment still needs to be discussed by some Members who have asked for an opportunity to speak; therefore, I am not prepared to accept it on our side at this point. So I am hopeful the Senator will allow us to lay the amendment aside temporarily for action tomorrow morning when others will be present to speak, and then we

would progress in the normal order to resolution.

Mr. LAUTENBERG. I have no objection.

Mr. LUGAR. I thank the Senator.

Mr. President, I ask unanimous consent that the Lautenberg amendment be temporarily laid aside and that Senator ALLEN be recognized.

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

The Senator from Virginia.

AMENDMENT NO. 1144 TO AMENDMENT NO. 1136

Mr. ALLEN. Mr. President, I call up amendment No. 1144.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. ALLEN], for himself and Mr. ALEXANDER, and Mr. GRAHAM of South Carolina, proposes an amendment numbered 1144.

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

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

The amendment is as follows:

(Purpose: To enhance efforts to combat the piracy of United States copyrighted materials)

At the end of subtitle B of title II, add the following:

SEC. 214. COMBATTING PIRACY OF UNITED STATES COPYRIGHTED MATERIALS.

(a) PROGRAM AUTHORIZED.—The Secretary may carry out a program of activities to combat piracy in countries that are not members of the Organization for Economic Cooperation and Development (OECD), including activities as follows:

(1) The provision of equipment and training for law enforcement, including in the interpretation of intellectual property laws.

(2) The provisionof training for judges and prosecutors, including in the interpretation of intellectual property laws.

(3) The provision of assistance in complying with obligations under applicable international treaties and agreements on copyright and intellectual property.

(b) DISCHARGE THROUGH BUREAU OF ECONOMIC AFFAIRS.—The Secretary shall carry out the program authorized by subsection (a) through the Bureau of Economic Affairs of the Department.

(c) CONSULTATION WITH WORLD INTELLECTUAL PROPERTY ORGANIZATION.—In carrying out the program authorized by subsection (a), the Secretary shall, to the maximum extent practicable, consult with and provide assistance to the World Intellectual Property Organization in order to promote the integration of countries described in subsection (a) into the global intellectual property system.

(d) FUNDING.—Of the amount authorized to be appropriated for other educational and cultural exchange programs by section 102(a)(1)(B), $5,000,000 may be available in fiscal year 2004 for the program authorized by subsection (a).

Mr. ALLEN. Mr. President, I rise on behalf of my colleagues, Senator ALEXANDER of Tennessee and Senator GRAHAM of South Carolina, to offer amendment No. 1144, which will provide direct assistance to developing countries to combat piracy of U.S. copyrighted works, materials, and intellectual property.

Specifically, our amendment authorizes $5 million for the State Department to provide equipment and training to foreign law enforcement officials—judges and prosecutors—as well as assistance in complying with that foreign country's obligations under the appropriate international copyright and intellectual property treaties.

The United States is the world's largest creator, producer, and exporter of copyrighted materials. Unfortunately, this vital, important sector of our country's economy is at great risk due to widespread global piracy. This piracy and theft is more specifically defined as the unauthorized reproduction, distribution, and sale of U.S.-made movies, music, software, video games, and other creative works.

The widespread piracy of U.S. copyrighted works and intellectual property threatens U.S. jobs. It threatens our businesses, creativity, and our economic prosperity.

In 2001, the U.S. recording industry alone lost $4.2 billion to the piracy of compact discs worldwide. The U.S. motion picture industry lost $3 billion to videocassette piracy, and the U.S. video game entertainment industry lost $1.9 billion due to piracy in just 14 countries.

In 2000, hard-goods piracy cost the U.S. business software industry $11.8 billion.

A recent study was commissioned by the Business Software Alliance, and it concluded that the largest trade barrier facing the U.S. software industry is worldwide software piracy. An estimated 37 percent—37 percent—of all software loaded onto computers globally in 2000 was illegal—37 percent illegal.

Most importantly, this report by the Business Software Alliance found that by lowering the software piracy rates by just 10 percent around the world, the IT industry would contribute an additional $400 billion in economic growth worldwide.

This is a very serious problem that needs to be addressed here at home and internationally. Unfortunately, though, developing and economically depressed countries have significant problems enforcing intellectual property protection laws due primarily to a lack of law enforcement training and expertise.

Under the requirements of the World Trade Organization's Agreement on Trade Related Aspects of Intellectual Property Rights, all WTO countries must have a legal frame in place to effectively protect intellectual property and copyrighted works. Therefore, in order to be compliant, a nation must not only have adequate civil and criminal laws regarding copyright protection, but it also must effectively enforce those laws.

Our amendment would provide assistance and resources to adequately train and enforce intellectual property laws in developing countries. This amendment will significantly aid efforts to protect American copyright holders all around the world. Our amendment does not increase the overall authorization level in this bill but, rather, constitutes a small portion—less than 2 percent of the entire budget—for educational and cultural exchange programs.

This amendment has broad support from both the content and technology industries. For example, the Recording Industry Association of America, the Motion Picture Association of America, the EMI Music Group, and the Walt Disney Company all support this amendment. Additionally, the Business Software Alliance, Apple Computers, AutoDesk, Cisco Systems, Entrust, Hewlett-Packard, IBM, Intel, Intuit, Adobe, Network Associates, Symantec, and Microsoft all support the Allen-Alexander-Graham amendment.

Mr. President, I ask unanimous consent that letters from these groups be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ALLEN. Thank you, Mr. President.

Mr. BIDEN. Will the Senator yield for a unanimous consent request?

Mr. ALLEN. I yield.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment.

Mr. ALLEN. It would be my great honor and pleasure to add Senator BIDEN of Delaware as a cosponsor.

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

Mr. ALLEN. Mr. President, I thank my colleagues, in particular Senator ALEXANDER and Senator LINDSEY GRAHAM, as well as Senator BIDEN, for their hard work. I know the Senator who is presiding over the Senate right now cannot respond, but I very much appreciate Senator ALEXANDER's understanding, hard work, and support for this amendment. And I urge the rest of my colleagues to vote in favor of this important provision.

Finally, I express my gratitude to our chairman of the Foreign Relations Committee, Senator LUGAR, as well as the ranking member, Senator BIDEN, for their support, for their assistance in working through this amendment, and, hopefully, having it included as part of this important bill.

With that, Mr. President, I yield the floor.

EXHIBIT 1

RECORDING INDUSTRY ASSOCIATION OF AMERICA,
Washington, DC, July 9, 2003.

Senator GEORGE ALLEN,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR ALLEN: The Recording Industry Association of America (''RIAA'') would like to express its strong support for the Allen/Alexander amendment to the State Department Authorization bill being considered by the Senate. The amendment would authorize $10 million to the State Department for purposes of working with law enforcement officials in nations around the world to increase enforcement of intellectual property laws.

One of the greatest challenges facing the music industry, and other domestic industries that produce intellectual property, is international physical piracy. In recent years, the U.S. recording industry has lost nearly $5 billion in revenues as a result of physical piracy around the world. Although the RIAA and its sister international organization, IFPI, continue to work cooperatively with diplomatic and law enforcement entities throughout the world in an effort to address this growing problem, the Allen/Alexander amendment would significantly aid our efforts to protect American intellectual property abroad.

We appreciate the leadership of Senators Allen and Alexander and strongly support their amendment to the State Department Authorization bill.

MITCH GLAZIER,
Senior Vice President Government Relations.

THE EMI GROUP,
New York, NY, July 9, 2003.

Senator GEORGE ALLEN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR ALLEN: On behalf of EMI—the world's third largest music company—I am writing to express our support for the Allen-Alexander Amendment to the Department of State Authorization bill currently pending in the Senate. The Allen-Alexander Amendment would authorize a State Department program to finance technical support and assistance for foreign governments that are combating intellectual property theft.

As you know, many of the industries founded on intellectual property are facing an international physical piracy crisis. In the last few years, international physical piracy has increased dramatically. Today, the pirate music market is estimated to be worth more than $4 billion a year and is having a substantial impact on our legitimate business. Many legitimate international markets that were once vibrant are being destroyed by physical, pirate product. Worldwide, about 40 percent of all music sold is pirate product. In countries like Mexico, Taiwan, and Brazil, the piracy rates exceed 60 percent. These were once countries where the record companies could build successful businesses.

International physical piracy is having a real impact on our companies. It contributed to our decision last year to publicly and painfully cut our work force by about 20 percent. As a result, hundreds of people were laid off in the United States. Moreover, we had to pare our artist rosters by one third. Other record companies have had to make similar moves and have actually withdrawn from countries where they once ran successful businesses—countries like Greece and Paraguay.

EMI, the other record companies and our trade associations are working hard to protect ourselves. The Recording Industry Association of America has investigators throughout the country—from Miami, to Chicago, to Los Angeles to New York. The International Federation of the Phonographic Industry has hundreds of investigators worldwide. In the last 18 months, due to their work, more than 60 illegal production lines with a combined capacity of nearly 300 million CDs (equal to about ⅓ of the U.S. market and larger than the entire market in France) were shut down. EMI has a high-ranking executive in charge of worldwide anti-piracy efforts. We have full-time, anti-piracy employees in every major EMI office worldwide.

But physical piracy has become the province of organized crime, and we cannot fight it without government help. Asian Triads and the American Mafia among other groups have been linked to physical piracy. Drug gangs, arms dealers and human smugglers have turned to music piracy to get quick easy money for their activities. Many of these counterfeiting rings are heavily armed. Our investigators and local law enforcement officers risk their lives when they raid pirate operations. Physical piracy involves complex, organized crime rings. They move quickly and across international boundaries.

A U.S. program to provide financial assistance to foreign governments fighting this crime will prove invaluable. It will demonstrate the U.S. government's meaningful commitment to protecting one of its vital industries, and it will provide foreign government's with the resources they need to fight this problem. Without this assistance and without U.S. leadership, the problem will continue.

EMI is the only major record company whose sole business is music. We are dedicated to making the music business work and thrive. And we have a workable model to accomplish that goal. We are aggressively distributing our product digitally and physically. We have implemented significant measures to curb rampant physical piracy, and we remain committed to intensifying those efforts in the future.

We appreciate your leadership in this important area and look forward to working with you to curtail the international physical piracy that is afflicting our industry.

Yours sincerely,

IVAN GAVIN,
Chief Operating Officer,
EMI Music, North America.

MOTION PICTURE ASSOCIATION
OF AMERICA, INC.,
Washington, DC, July 9, 2003.

DEAR SENATOR ALLEN: I write to you today to express our support for the Allen/Alexander Amendment, which we feel will prove to be a useful and effective tool in combating international piracy of copyrighted works. As you are no doubt aware, addressing the piracy of our creative works is an issue of primary importance to us.

The corrosive fallout of copyright poses an ever-growing hurdle, costing the film industry than $3 billion annually. Piracy in the international realm is of particular concern, since our industry earns approximately 40% of its revenues outside of the United States. International piracy has proven to be an enduring problem, threatening to eviscerate this vital market. All too often studios must compete in these foreign markets with illicit copies that have been illegally available for months before films arrive in foreign theaters, hit store shelves, or debut on the TV program guide.

The film industry is not the only victim vulnerable to theft—an entire segment of the economy is jeopardized. The piracy of America's intellectual property poses a grave threat to all of the U.S. Copyright Industries. These industries—movies, home video and television programming, music and sound recordings, books, video games and software—are a vital engine of economic growth for the American economy and generate more international revenues than any other single manufacturing sector, including automobiles and auto parts, aircraft, and agriculture. They are responsible for more than five percent of the nations' total GDP and are creating new jobs at three times the rate of the rest of the economy. The film industry alone has a surplus balance of trade with every country in the world.

We feel this measure will help fight international piracy and we support your efforts in addressing this problem.

Sincerely,

KEN INOUYE.

THE WALT DISNEY COMPANY,
Washington, DC.

Senator GEORGE ALLEN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR ALLEN: I am writing to express The Walt Disney Company's support for the Allen/Alexander amendment designed to provide direct assistance to non-OECD countries for the purpose of combating piracy of U.S. copyrights works.

Copyright piracy costs the film industry more than $3 billion annually. You and Senator Alexander should be commended for your leadership in this effort. Staunching copyright piracy both domestically, and internationally, should be a paramount goal of our government. Piracy undercuts the creative process and saps the strength of the U.S. copyright industry, which is a leading source of job creation and exports.

Sincerely,

MITCH ROSE,
Vice President.

BUSINESS SOFTWARE ALLIANCE,
Washington, DC, July 9, 2003.

Hon. GEORGE ALLEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALLEN: On behalf of the members of the Business Software Alliance, I am writing in support of the Allen-Alexander amendment to S. 925, the State Department Authorization bill.

Piracy results in significant harms to the U.S. software industry. BSA conducts an annual survey of software piracy around the world. In 2002, our study identified an estimated $13 billion in software piracy. This piracy results in lost jobs and tax revenues at a time when economic growth is critical to the continued success of our industry.

The Allen-Alexander amendment will authorize the State Department to educate nations about the world about the importance of copyright protection. The future growth of the software industry will be predominantly overseas where IT investments are still just beginning. Ensuring that software is properly licensed around the world, instead of pirated, will result in greater American tax revenues. This effort to authorize the State Department to educate foreign law enforcement and judicial officials about priracy deserves full Congressional support.

Sincerely,

ROBERT HOLLEYMAN,
President and Chief, Executive Officer.

NETWORK ASSOCIATES,
July 9, 2003.

Hon. GEORGE ALLEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALLEN: On behalf of Network Associates, Inc., a world leader in security and availability software, I am writing in support of the Allen–Alexander amendment to S. 925, the State Department Authorization bill.

Piracy results in significant harms to the U.S. software industry. The Business Software Alliance conducts an annual survey of software piracy around the world. In 2002, their study identified an estimated $13 billion in software piracy. This piracy results in lost jobs and tax revenues at a time when economic growth is critical to the continued success of our industry.

The Allen—Alexander amendment will authorize the State Department to educate nations about the world about the importance of copyright protection. The future growth of the software industry will be predominantly overseas where IT investments are still just beginning. Ensuring that software

is properly licensed around the world, instead of pirated, will result in greater American tax revenues. This effort to authorize the State Department to educate foreign law enforcement and judicial officials about piracy deserves full Congressional support.

At Network Associates, we see piracy as a tool for criminals to use for their own nefarious gain. By proactively educating foreign law enforcement and judicial officials about piracy, we can begin to reduce the threats not only to our industry, but to the integrity of intellectual property itself.

Sincerely,

STEPHEN C. RICHARDS,
Chief Operating Officer & Chief Financial Officer.

INTERACTIVE DIGITAL SOFTWARE ASSOCIATION,
Washington, DC, July 9, 2003.

Hon. GEORGE ALLEN,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR ALLEN: The Interactive Digital Software Association (IDSA) is the U.S. trade association dedicated to serving the business and public affairs needs of companies that publish interactive games for video game consoles, personal computers, handheld devices, and the Internet. The IDSA's members collectively accounted for more than 90 percent of the entertainment software sold in the U.S. in 2002. IDSA operates an anti-piracy program aimed at combating the global piracy of our members' products.

We are writing to convey our full support for S. 925 and its provision for training resources for law enforcement officials, prosecutors and judges in non-OECD countries. Many non-OECD countries are the locales of some of the most virulent piracy environments afflicting our industry, not only from the standpoint of impeding the development of legitimate local markets for entertainment software but also frequently serving as the seedbed for the large-scale manufacture and export of thousands of infringing copies to destinations around the world.

A lack of knowledge of and appreciation for intellectual property among local law enforcement officials, prosecutors and even judges in many of these countries are frequently material factors contributing to the ineffectiveness of efforts to control and reduce the activities of local pirates. There is no question that the allocation and application of resources to address this problem would go a long way to enhancing the productivity of local law enforcement efforts targeting local pirate operations. Accordingly, IDSA would like to express its full support for the bill and its objectives.

Sincerely,

FREDERIC HIRSCH,
Senior Vice President.

ENTRUST®
July 9, 2003.

Hon. GEORGE ALLEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALLEN: On behalf of Entrust, Inc., I am writing in support of the Allen—Alexander amendment to S. 925, the State Department Authorization bill.

As you know, piracy results in significant harm to the U.S. software industry, which results in lost jobs and tax revenues at a time when economic growth is critical to the continued success of our industry.

The Allen–Alexander amendment will authorize the State Department to educate nations about the importance of copyright protection. The future growth of the software industry will be predominantly overseas where IT investments are still just beginning. Ensuring that software is properly licensed around the world, instead of pirated, will result in greater American tax revenues. This effort to authorize the State Department to educate foreign law enforcement and judicial officials about piracy deserves full Congressional support.

Thank you for your leadership,

Sincerely,

DANIEL F. BURTON,
Vice President, Government Affairs.

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

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

Mr. ALEXANDER. Mr. President, I rise in support of the antipiracy amendment that the Senator from Virginia just discussed and of which I am proud to be a cosponsor.

I am delighted that Senator BIDEN from Delaware, Senator GRAHAM from South Carolina, and other Members of the Senate are either cosponsors or interested in this amendment.

The Senator from Virginia has explained, very clearly, why this is important, why it is important to authorize the State Department to establish an antipiracy program that will help foreign governments establish and protect intellectual property rights. It authorizes $5 million for the program, which is an important amount, a good start, but a relatively small amount in the overall bill.

The antipiracy program, as the Senator from Virginia explained, would help protect American intellectual property abroad by, first, providing equipment and training for foreign law enforcement of intellectual property rights; second, train judges and prosecutors; and, third, assist foreign governments in complying with obligations under appropriate international copyright and intellectual property treaties and agreements.

We all know the importance of this. We have come to take it for granted in our country. We are a country of inventors, of artists, of entrepreneurs, of creators. So much of our wealth and our uniqueness comes from that. The Senator from Virginia knows that because of the technological progress in his State, as there is in mine. We know it in Tennessee especially because of our musicians.

We know the importance of protecting physical property in America. The owner has bought it or built it, and it belongs to them. Intellectual property should be treated no differently. Whether it is a song or a computer program, a patent or a piece of art, someone has created it, and it should belong to him or to her until he or she chooses to sell it or to give it to someone else.

Nashville is the home of country music. Memphis is the home of the blues. A lot of our Tennessee music started in Bristol which spreads itself across the States of Virginia and Tennessee. We have strong feelings about this in our part of the world.

The music business is suffering because of mass piracy of intellectual property. In the past 4 years, unit shipments of recorded music have fallen by 26 percent. In terms of sales, revenues are down 14 percent, from $14.6 billion in 1999 to $12.6 billion last year. The music industry worldwide has gone from a $39 billion industry in 2000 down to $32 billion in 2002, which is a decline of 18 percent. Much of this decline is due to music piracy, most of which occurs on the Internet. Computer users illegally download more than 2.6 billion copyrighted files, mostly songs, every month. At any given moment, approximately 4 to 5 million users are on line offering an estimated 800 million files for copy.

According to a November 2002 survey by Peter D. Hart Research, by a 2-to-1 margin most consumers who say they are downloading more music report that they are purchasing less. Much of this problem is domestic. We need to acknowledge that. But some of it also comes from abroad. About 25 percent of the total files available on unauthorized Internet services are hosted outside the United States.

In my State of Tennessee, this theft of intellectual property hurts a key sector of our economy. Nashville is home to more than 29 different major and independent record labels and 52 recording studios. It has one of the Nation's largest concentrations of song writers, performers, and music publishers. An estimated 20,000 Nashvillians work in music tourism, broadcasting, and related fields. The city is home to more than 1,500 entertainment companies. Musicians unions have more than 5,500 members in Music City.

I think the Presiding Officer can understand, especially because of his leadership on this issue, why protecting their intellectual property rights means more than just helping one artist earn money off a hit record. It means protecting thousands of jobs and maintaining an industry that brings joy to millions of fans in this country and around the world.

I urge my colleagues to support the amendment which authorizes a small but important amount of money to protect intellectual property rights around the world.

I thank the Senator from Virginia for his leadership and yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, we commend the distinguished Senators who have offered this amendment and worked carefully through the text of it to an amendment that is acceptable to both sides. I indicate my support and we are prepared to accept the amendment. My understanding is that the distinguished Senator from Delaware,

the ranking member, is prepared to accept the amendment.

Mr. BIDEN. I am prepared to accept the amendment.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 1144) was agreed to.

Mr. ALLARD. Mr. President, I rise today to thank the Foreign Relations Committee for their hard work on the legislation before us. Specifically, I am pleased to see included in S. 925, the State Department authorization, a provision relating to the international military education training and foreign military financing for Indonesia.

The committee has seen fit, and rightly so, to deny the release of any of these funds to Indonesia without certification from our President that the Indonesian Government has taken effective measures to conduct an investigation into the August 2002 attacks on American citizens and to prosecute those responsible.

By now I know that my colleagues in the Senate are aware of the tragedy that occurred last August in West Papua, Indonesia, which resulted in the deaths of two Americans. Justice has still not been found for Rick Spier or Ted Burgeon, and I am grateful that the Foreign Relations Committee has recognized the need for Indonesia and its military apparatus to determine what has occurred. Hopefully, this provision will demonstrate to the Indonesian Government that the United States Senate will not allow this issue to fall to the wayside, and that we remain committed to finding and punishing those responsible.

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

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

MORNING BUSINESS

Mr. LUGAR. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

LIBERIA

Mr. FEINGOLD. Mr. President, I rise to comment on the urgent crisis in Liberia, and on my conviction that the United States has a role to play in its resolution. I also rise to call for the kind of information and clarity that we need if we are to take effective action.

In recent days the newspapers have reminded Americans of the special relationship that exists between America and the west African Republic of Liberia, a country founded by freed slaves from the United States in 1820. But it is important to note the more recent historical links between our countries as well.

During the cold war, eager for reliable client states in Africa, the United States supported Samuel Doe when he seized control of Liberia in a 1980 coup, and kept supporting him even when he stole the 1985 elections. In fact, in the first five years of the Doe regime, the United States contributed nearly $500 million in economic and military aid—effectively bolstering the government's staying power. The Doe regime was an extraordinarily brutal one that not only disenfranchised many Liberians, it also effectively erased the boundaries between legitimate and illegitimate political action. When the cold war was over and Charles Taylor's band of rebels—some of them children—clashed with government forces and other ethnic militias in the streets, the resulting conflict was so frighteningly gruesome that for many it was almost impossible to understand.

And the United States, no longer concerned about Communist influences in Monrovia, simply evacuated American citizens and then watched the country tear itself apart from the sidelines. In the end, Taylor essentially held the country hostage to his desire for power, and war-weary Liberians elected him President in the hopes of avoiding conflict. Taylor's desire for power and wealth turned out to extend beyond his own borders, however, and he became a primary patron of the brutal Revolutionary United Front, or RUF, force in Sierra Leone, which provided his regime with riches from Sierra Leone's diamond mines in exchange for military support and protection.

On November 2, 2001 the Washington Post ran a front-page article about alleged connections between al-Qaida's financing and the illicit sale of diamonds mined by Liberian-backed rebels in Sierra Leone—rebels who, you may recall, are best known for cutting off the limbs of civilians, including children, to make a political statement. Reports have also linked illicit diamond sales to Hezbollah. Additional articles focused on notorious arms dealer Victor Bout, whose deliveries to the region may have been paid for in diamonds. Law enforcement officials have suggested that Bout has been involved in arming international terrorists and the forces that harbor them worldwide. These reports have been the subject of controversy, and the connections and relationships involved are murky at best, but the issue that they expose—the vulnerability of weak states to exploitation by international criminals—is not in doubt.

Meanwhile, Taylor's criminal enterprise has proved the rule that order, when imposed through injustice and repression, tends to crumble, and the forces currently challenging the regime for power—the LURD and MODEL—appear to be have learned their abusive tactics from their enemies. Criminality rules, chaos threatens, and the civilians of Liberia—the people with a real interest in building a stable future, the people who simply want a chance to send their children to school, are once again likely to be caught in the crossfire.

It is time for the international community to stand up and say, ''no more'' to this cycle of chaos in west Africa. No more deals with thugs, no standing by as observers to cycles of slaughter, no more watching the predictable fomenting of instability across borders, no more standing by as organized crime expands its reach from the very seat of government, no more opportunities for terrorists. Enough—because more of the same threatens our interests and denies our basic humanity.

The United States should take a leadership role in responding to the Liberian crisis. And that means that we need to clarify the costs and commitments entailed in a response now, so that we can take informed and responsible action.

Recently the distinguished chair and ranking member of the Armed Services Committee indicated that they believe Congress should vote on any commitment of substantial forces in the region. I believe that they are right, and that United States troops must always be deployed in a manner consistent with the War Powers Act of 1973. But I also know that watching and waiting is not an option that will serve United States interests.

In Liberia, we can and should act in concert with the international community. In 2000, the British made a courageous decision and helped to bolster peacekeeping efforts in Sierra Leone, bringing an end to a violent spectacle that had outraged the world without provoking an effective response for years.

The French deployed to Cote d'Ivoire when it fell victim to the forces of disorder, are trying to reverse the trend toward violence and chaos that recently gripped that once-stable place. African states have mobilized as well, and they continue to work feverishly to resist the spread of misery, deprivation, and violence that has spread throughout this region. For historical reasons, most in the international community looks to the United States for commitment and leadership in stabilizing Liberia, which is the country that is at the heart of this regional decline in West Africa. In fact, unlike the situation we recently faced in Iraq, virtually the entire international community is urging the United States to act: from our closest allies in Britain to the Secretary General of the United Nations. And most importantly, west Africans themselves are asking for our help. Liberians are frantically waving U.S. flags, hoping to get our attention, praying we will come to their aid. This is a not a situation that involves antagonizing allies in the fight against

terrorism—instead, it calls for cooperating with the diverse actors around the world who are already committed to fighting for stability in the region.

And make no mistake, the United States is already among those actors. This is not some new issue that just emerged over the last month, and we are not at the precipice of deciding whether or not to get involved. Let us take just one example:

As of January 1 of this year, the United States had spent over $515 million on the peacekeeping mission in Sierra Leone and on Operation Focus Relief, which was devised to support that mission. Hundreds of millions more have been appropriated and requested for this purpose in 2003 and 2004. From the point of view of the United States taxpayer, we are already in quite deep.

There is no denying that Sierra Leone's long-term stability depends upon resolving the problem in Liberia. Over the July 4 recess, I sent a member of my staff to Sierra Leone, and to the region in the east that borders Liberia and which was formerly a RUF stronghold, to assess the situation. And I can tell you, from her report, that senior military experts in the region have recently underscored this point.

The question before us now is whether or not we will protect our investment and our interests by addressing the foremost underlying cause of instability in the region; and that is, the criminal enterprise currently governing Liberia, and the violent and abusive movements that have sprung up in resistance to it.

I have been to Liberia, and I have been to Cote d'Ivoire, and I have been to Sierra Leone. I have served on the Senate Foreign Relations Committee's Subcommittee on African Affairs since I came to the Senate in 1993. For over 7 years now I have served as either the chairman or ranking member of the subcommittee. In this role, and in Africa, I have met with amputees, refugees, widows and orphans. I have spoken with west African heads of state and west African civil society leaders about Liberia's influence on the region. I have no doubt in my mind that the humanitarian catastrophe and the dangerous instability in the region will not be resolved until Liberia is stabilized—and that means more than replacing one thug with another.

During my chairmanship of the subcommittee last year, we held a series of hearings focusing on the very real security threats that are posed by weak or failed states in Africa, including criminal networks like those in Somalia or west Africa which can provide a safe haven for terrorist activities. After the horror of September 11, 2001, consensus built across the political spectrum, acknowledging that the United States was shortsighted when we disengaged from Afghanistan and Pakistan once we no longer had cold war-related interests in those countries. So what happened? What happened was that America left a vacuum in its wake, and some of the forces that moved to fill that vacuum came to threaten our security in ways we could not have imagined.

The very same thing is true in sub-Saharan Africa. Manifestations of lawlessness such as piracy, illicit air transport networks, and trafficking in arms, drugs, gems and people simply beckon to those who would operate in the shadows, beyond the reach of the law.

It only takes one look at the war-ravaged state of Congo today, or the porous borders of west Africa, to see opportunities for those who would do us harm. In 1998, al-Qaida seized that opportunity, perpetrating attacks on the American embassies in Kenya and Tanzania that killed 223 people—Kenyans, Tanzanians, and Americans—and wounded thousands more. And unless we take action to make African societies less vulnerable to this kind of lawlessness rather than continuing our post-cold-war pattern of neglect, we may well reap the terrible consequences here at home.

But a word of caution and a clarification are in order here. It is difficult to verify links between west African chaos and international terrorism, in part because illicit diamonds are such effective money-laundering instruments. And I am not saying that al-Qaida is in league with Charles Taylor or the LURD or MODEL, and therefore we should go marching into Monrovia for that reason. I have not seen any information that would lead me to believe that to be true, and, frankly, I am not interested in harnessing the power and the emotion bound up in the fight against terrorism to every other policy issue for the sake of political convenience. My goal here is to protect the American people and to ensure that our international action is responsible.

And I am not saying that the United States military should stand poised to intervene throughout the continent wherever disorder reigns. Of course not. But just as Australia, backed up by the international community, responded to crisis in East Timor; just as Britain, backed up by the international community, responded to crisis in Sierra Leone; so too, sometimes, it falls to the United States to take a leadership role.

Unlike the issue of Iraq that came before us last year, I am not talking about starting a war with anyone in the face of widespread international opposition. Instead, I am talking about working with the international community to help stabilize a country that has fallen into the hands of undisciplined bands of thugs. For unilateral action in the face of massive global opposition, I set the bar very high. For action in concert with others that will be widely welcomed, I still set a high bar. It must be in our interest. And there are questions that must be answered to my satisfaction before any intervention can meet with my approval. And I remain very, very concerned about our overextension militarily around the world. I am neither a promilitary intervention Senator nor an antimilitary intervention Senator. Attaching ourselves to such labels is a mistake. I simply try to look at each situation and exercise my judgement. After years of studying this situation, my judgement tells me that the United States has a meaningful role to play here in Liberia.

And let us not forget that we are also talking about a human tragedy unfolding before our eyes. Tens of thousands are already displaced; hundreds died in fighting in Monrovia a few days ago. The quality of life of civilians in Liberia contends for the title of worst in the world. At some point, this has to matter. Common decency suggests that the international community should act to stop the downward spiral.

It is time to say: no more. After visiting the region, I called Charles Taylor a war criminal here on the Senate floor in 2001, saying publicly what many had said privately for a long time. The Special Court for Sierra Leone unsealed an indictment to this effect just last month. Like many of my colleagues, I strongly support the court. West Africa must break the cycle of violence and impunity, and all of us in the international community have a role to play in that effort. And I support President Bush, who is right to call on Charles Taylor to step down, just as the Special Court for Sierra Leone was right to indict him. But, let us be clear. Taylor should have no veto over internationally backed U.S. action. His days of dictating the destiny of the west African people are over.

U.S. action may involve sending American troops. But before making that decision, we need answers to several critical questions.

I have not seen the scenarios or projections for any kind of action or intervention that have surely been worked up by the administration. I should see them. We should all see them. And we should see them sooner rather than later. And we need answers to the questions: Will United States participation and leadership overstretch our resources? What are the costs? What commitments are we making? What is our exit strategy? And, what are our plans for the coordination of long-term stabilization efforts?

Of course the answers should inform any decision about what we should and should not do. No one should understand my remarks today as some sort of ''anything goes'' endorsement of any and all proposals that may emerge. But I do believe that we must do something, and that we need to confront these questions quickly. As I have noted, American inaction and indifference is not an option. We are already deeply involved. The success of any action we take cannot be guaranteed, but we know that the costs of inaction are very high and very dangerous.

I urge the administration to begin undertaking consultations urgently so

that we can move forward with an informed, effective, and timely response.

PATIENTS FIRST ACT

Mr. BUNNING. Mr. President, I am disappointed the Senate did not vote to move to full consideration of S. 11, the Patients First Act of 2003, to address the national crisis our doctors, hospitals and those needing healthcare face today.

One of the top issues we all hear about from doctors in our States is how they are being squeezed financially by skyrocketing medical liability premiums. The Senate had a real opportunity to help remedy this problem by passing the Patients First Act, but unfortunately, we didn't even get a chance to fully consider and vote on this bill.

Not only is medical liability hurting doctors, but it is now starting to affect the quality and availability of care for patients. First, let me give a little background on the situation in Kentucky. I know many other States face the same situation.

In March of this year, Kentucky joined 17 other States on the American Medical Association's list of ''crisis States.'' This means that the current liability system is affecting patient care.

Physicians across my State are facing some hard choices trying to figure out how to pay their rising premiums. Some are choosing to close their offices or retire early. Others are packing up and moving to other States with more sensible insurance regulations. Most concerning are reports of physicians no longer delivering babies because they cannot afford the liability insurance. This leaves expectant mothers in the lurch and creates huge, frightening gaps in critical medical coverage. In Kentucky, for example, Knox County hospital has stopped delivering babies which is forcing expectant mothers to travel to neighboring counties for care.

The Kentucky Medical Association conducted a survey last year on the effects of rising medical malpractice premiums. They found that 70 percent of the physicians in Kentucky saw their premiums go up. In the worst example, there was a $476,000 increase for a six-physician orthopedic office that didn't have any settlements or judgements against it.

Recently, I received a letter from Catholic Healthcare Partners, a hospital system with about 30 hospitals and 8,900 affiliated physicians across the country. In Kentucky, they own several hospitals, including Lourdes Hospital in Paducah and Marcum & Wallace Memorial Hospital in Irvine.

According to Catholic Healthcare Partners, the hospital system's liability insurance premiums increased by 50 percent in 2001 and 70 percent in 2002. In fact, in the past 3 years, their premiums have increased by almost $25 million. Unfortunately, Catholic Healthcare Partners is the rule instead of the exception.

In May, the Joint Economic Committee published a study on the impact of medical liability litigation. The report said the total premiums for medical liability insurance more than doubled from 1991 to 2001 to reach $21 billion. Hospitals and doctors simply cannot continue keeping their doors open and treating patients if their premiums continue to rise this rapidly.

For example, Appalachian Regional Healthcare is one of the largest rural health systems in the country and employs 150 physicians in its nine hospitals and other healthcare outlets. ARH provides services in both Kentucky and West Virginia, and employs most of the obstetricians and pediatricians in eastern Kentucky.

In January of this year, ARH made a decision to become completely self-insured. In 2001, the hospital system's key carrier for medical liability coverage dropped the hospital, and ARH couldn't find any other affordable coverage. For 2002, the bids for coverage the hospital received were $12 million to $13 million—which was more than the hospital system's net revenue and almost triple what they had paid the year before.

The hospital system is now building an insurance reserve in case there are any malpractice settlements against it. However, according to ARH representatives, they realize that even one single case could cripple the system and its physicians.

There is no doubt the system is broken. And for many Kentuckians, especially in our rural areas, there is no doubt skyrocketing insurance rates are making it harder for patients to get the quality care they need. The rising premiums not only take a toll on physicians and hospitals, but it means you, me, and everyone in this country is paying more for medical care. Very simply, individuals pay more for medical care because of the increases in premiums doctors face.

Although all of us are paying more, some people are making out like bandits—usually the trial attorneys. It hardly seems that you can turn on your television these days without seeing a commercial by one trial attorney or another looking for ''injured'' people. Some of these lawyers specialize in certain kinds of injuries while others aren't as picky and will take anyone involved in an accident. Most give a toll-free number, and many promise that ''we won't get paid unless you get paid.''

In a report by the Department of Health and Human Services released last year, it said the number of ''megaverdicts is increasing rapidly,'' particularly within specialty areas of medicine. The report goes on to say lawyers have an ''interest in finding the most attractive cases'' and they have ''an incentive to gamble on a big 'win.'' Finally, the report says ''lawyers have few incentives to take on the more difficult cases or those of less attractive patients.''

Is this really the way we want our legal system to work? Are we really getting the best results with this type of legal system? The answer to both of these questions is no.

It seems like I have been voting for changes to our medical liability system since I have been in Congress, but we always seem to come up a few votes short. The Patients First Act places some commonsense controls on lawsuits against doctors. This will help bring some control over the rising medical liability premiums, and doctors in my State will be able to provide healthcare services.

For example, the bill places limits on noneconomic and punitive damages, but does not limit economic damages. The bill also limits the amount attorney's can collect from their clients depending on the size of the settlement. The bill requires lawsuits to be filed within 3 years of the injury, although this time limit is extended to children under the age of 6 who are injured.

Finally, the bill makes defendants liable for only their share of the injury that occurred and allows periodic payment of future damages. These changes could make a big difference in the availability and cost of healthcare in the United States and Kentucky. These changes could mean physicians in Kentucky thinking about leaving the state will be able to stay, and doctors thinking about leaving the profession will be able to continue practicing.

I am disappointed we did not have enough votes to proceed and fully consider the Patients First Act, however, I am hopeful we can come back and revisit this important issue soon, and give our doctors, hospitals, and especially those needing healthcare a more affordable system with better access.

CONFIRMATION OF DAVID CAMPBELL

Mr. LEAHY. Mr. President, yesterday, the Senate voted to confirm David Campbell to a lifetime appointment on the United States District Court for the District of Arizona. With this confirmation, we will fill the sole vacancy on that court—which is actually not even vacant yet. Mr. CAMPBELL is nominated to a new position that will become vacant on July 15. I have been glad to work with the Senators from Arizona to consider this nominee and provide bipartisan support. I congratulate the nominee and his family.

The Senate has now confirmed 133 judges nominated by President Bush, including 26 circuit court judges. One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 33 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President

Bush. This total of 133 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996 and 1997—the first 3 years they controlled the Senate process for President Clinton. In those 3 full years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already exceeded that total by 20 percent and the circuit court total by 40 percent with 6 months remaining to us this year. In truth, we have achieved all this in less than 2 years because of the delays in organizing and reorganizing the Senate in 2001. The Judiciary Committee was not even reassigned until July 10, 2001, so we have now confirmed 133 judges in less than 2 years.

In the first half of this year, the 33 confirmations is more than Republicans allowed to be confirmed in the entire 1996 session, when only 17 district court judges were added to the Federal courts across the Nation. In the first half of this year, with 9 circuit court confirmations, we have already exceeded the average of seven per year achieved by Republican leadership from 1995 through the early part of 2001. That is more circuit court confirmations in 6 months than Republicans allowed confirmed in the entire 1996 session, in which there were none confirmed; in all of 1997, when there were 7 confirmed; in all of 1999, when there were 7 confirmed; or in all of 2000, when there were 8 confirmed. The Senate is moving two to three times faster for this President's nominees than for President Clinton's, despite the fact that the current appellate court nominees are more controversial, divisive and less widely-supported than President Clinton's appellate court nominees were.

The confirmation of David Campbell to the District Court for Arizona illustrates the effect of the reforms to the process that the Democratic leadership has spearheaded, despite the poor treatment of too many Democratic nominees through the practice of anonymous holds and other obstructionist tactics employed by some in the preceding 6 years. David Campbell is the fourth Federal judge confirmed from Arizona for President Bush. Under Democratic control, the Senate confirmed Judge David Bury, Judge Cindy Jorgenson and Judge Frederick Martone to the District Court for the District of Arizona.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995–97 or the period 1996–99. In addition, the vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997 or the 110 vacancies that Democrats inherited in the summer of 2001. We continue well below the 67 vacancy level that Senator HATCH used to call ''full employment'' for the Federal judiciary. Indeed we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in Federal courts to a historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as it did for President Clinton's.

For those who are claiming that Democrats are blockading this President's judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate's record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton's moderate judicial nominees by Republicans between 1996 and 2001.

Mr. NELSON of Florida. Mr. President, yesterday the Senate voted on the nomination of David Campbell to serve as a U.S. District Judge for the District of Arizona.

I was unable to vote because I was returning to Washington, DC from official travel to Iraq in connection with my duties as a member of the Senate Armed Services Committee.

Had I been present, I would have supported Mr. Campbell's confirmation to the district bench. After reviewing his credentials, I believe Mr. Campbell is well prepared to serve in this important position and has the proper judicial temperament to fairly and justly apply the law.

IN REMEMBRANCE OF SENATOR STROM THURMOND

Mrs. DOLE. Mr. President, I rise to speak on the passing of a dear friend and a leader in this Chamber, Strom Thurmond.

Strom retired this year at the age of 100—after more than a half century of serving the people of South Carolina and our Nation as U.S. Senator, as Governor of South Carolina, and as a State legislator. Remarkably, his career in the Senate spanned the administrations of 10 presidents—from Dwight Eisenhower to George W. Bush.

His passing certainly will be felt by so many Members of this Chamber who had grown accustomed to the courtly gentleman from South Carolina. But his life leaves a lesson for us all—in compassion, civility, dedication, hard work, and respect.

Before he was elected to the Senate in 1954 as the only write-in candidate in history to win a seat in Congress, Strom Thurmond was elected county school superintendent, State senator, and circuit judge until he resigned to enlist in the Army in World War II. He landed in Normandy as part of the 82d Airborne Division assault on D-day, and the story goes, flew into France in a glider, crash-landed in an apple orchard. He went on to help liberate Paris, and he received a Purple Heart, five battle stars, and numerous other awards for his World War II service.

My husband, Bob, and I were honored to have known Strom Thurmond for so many years and to count him among our friends. He and Bob shared a great deal of common history dating from their World War II days, and his Southern gallantry always had a way of making this North Carolinian feel right at home.

I first worked with Strom Thurmond when I served as Deputy Special Assistant to the President at the White House. Even then, he was an impressive Senator. President Reagan praised his ''expert handling,'' as chairman of the Senate Judiciary Committee, of nominees to the U.S. Supreme Court. In fact, it was Strom Thurmond's skill as chairman that helped to shepherd through the nomination of Sandra Day O'Connor as the Nation's first female on the United States Supreme Court.

I always admired Strom Thurmond for his constant dedication to the people of South Carolina and the industries of that State. Bob Dole has joked that ''Someone once asked if Strom had been around since the Ten Commandments.'' Bob said that couldn't have been true—if Strom Thurmond had been around, the 11th Commandment would have been ''Thou shall support the textile industry.'' That industry still needs a lot of help. In fact, when President Reagan called Strom to wish him a Happy 79th birthday back in 1981, Strom Thurmond, with his constant attention to South Carolina interests, used the opportunity to talk to the President about the textile industry.

Indeed, South Carolina is full of stories of how the senior senator from South Carolina managed to cut through red tape to make sure that his residents got the things they needed. And whenever South Carolinians called—or anyone else for that matter—Strom Thurmond could always be counted on to show up: at a Fourth of July parade, a county festival, or a State fair, armed with his trademark Strom Thurmond key chains.

And North Carolinians developed a fondness for Strom Thurmond. He often flew into Charlotte before driving to his Edgefield, SC home. And he became so familiar in the airport that many of the workers there knew him—and he knew them, often stopping to share a kind word or a funny story.

And I was so honored that just before he went home for good, he came in his wheelchair, with Nancy's help, to visit me in my basement office and welcome me to the Senate.

Bob and I sent our heartfelt condolences to Strom's family: our dear friend Nancy and the children, and daughter, Julie, who worked with me

at the Red Cross. He was a loving husband, proud father, and a new grandfather. And, of course, he loved the people of South Carolina—for whom he worked tirelessly throughout his career in public service, and to whom he chose to return when his work was done in the Senate.

Today, as I remember him, his life, and his legacy, I think of the Bible in the 25th Chapter of Matthew, when the Lord said, ''Well done, thou good and faithful servant. . . . Enter thou into the joy of the Lord.''

May God bless him and his family.

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 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.

I would like to describe a series of terrible crimes that occurred in Ashton, MD. During September 2001, an Arab-American homemaker was attacked and her property vandalized by a female neighbor. The neighbor spread feces across the Arab Americans' porch three times, pelted the home with dead plants, and doused the woman with liquid. The neighbor doused the Arab-American woman a second time, this time with bleach, which burned the victim's skin and discolored her clothes.

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.

JUDGES ACT

Mr. LEAHY. Mr President, earlier this year, the House Republicans saddled the bipartisan, non-controversial AMBER Alert bill with numerous unrelated and ill-conceived provisions, collectively known as the ''Feeney amendment,'' that effectively overturned the basic structure of the carefully crafted sentencing guideline system. At the time, we were warned by distinguished jurists that these provisions would irrevocably harm our sentencing system and compromise justice. For example, the Nation's Chief Justice warned that the Feeney amendment, if enacted, ''would do serious harm to the basic structure of the sentencing guideline system and would seriously impair the ability of courts to impose just and responsible sentences.'' Despite such objections, and without any serious process in the House or Senate, these provisions were pushed through conference with minor changes and enacted.

We are now beginning to witness the far-reaching impact of this folly. Not only have we compromised the sentencing system, but we have alienated and minimized the effectiveness of our Federal judges, prompting at least one to announce early retirement.

As enacted, the Feeney amendment, substantially reversed provisions allowing Federal judges to depart from sentencing guidelines when justice requires. It also created a ''black list'' of judges who impose sentences that the Justice Department does not like, and limited the number of Federal judges who can serve on the Sentencing Commission, thus reducing the influence of practical judicial experience on sentencing decisions.

In response, in a June 24 op-ed in the New York Times, Republican-appointed district judge and former Federal prosecutor, John S. Martin, Jr., decried these provisions as ''an assault on judicial independence,'' ''at odds with the sentencing philosophy that has been a hallmark of the American system of justice,'' and tragically, the impetus for his decision to retire from the bench, rather than exercise his option to continue in a lifetime position with a reduced workload. ''When I took my oath of office 13 years ago I never thought I would leave the Federal bench. . . . I no longer want to be part of our unjust criminal justice system.''

It is shameful that we have allowed such half-baked, poorly-crafted legislation to lead to the loss of a judge that has dedicated his career to fighting crime and preserving justice. When he was appointed by the first President Bush in 1990, Judge Martin brought with him to the bench years of knowledge and experience as a Federal prosecutor, including 3 years as a U.S. Attorney for the Southern District of New York. As a former Federal prosecutor, he is no slouch on crime. He knows very well the importance of vigorously pursuing and punishing wrongdoers. But his experience has also taught him that these goals cannot trounce the equally-critical pursuit of justice and fairness.

Unless we reverse the damaging provisions in the Feeney amendment, we will continue to compromise justice, alienate Federal judges, and threaten the stability and integrity of our judicial system. That is why I joined Senators KENNEDY, FEINGOLD, and LAUTENBERG in introducing the Judicial Use of Discretion to Guarantee Equity in Sentencing Act of 2003, or the JUDGES Act. This bill would correct the Feeney amendment's far-reaching provisions by restoring judicial discretion and allowing judges to impose just and responsible sentences. In addition, the JUDGES Act would reverse the provisions limiting the number of Federal judges who can serve on the Sentencing Commission. Finally, the JUDGES Act would follow through on the advice of Chief Justice Rehnquist to engage in a ''thorough and dispassionate inquiry'' on the Federal sentencing structure by directing the Sentencing Commission to conduct a comprehensive study on sentencing departures and report to Congress with 180 days.

In his New York Times op-ed, Judge Martin raised another important point: Limiting judicial discretion and involvement in sentencing practices also reduces the personal satisfaction that judges derive from knowing that they are integrally involved in promoting a more just society, and in doing so removes a powerful incentive that prompts potential judges to accept a judicial appointment, despite inadequate pay. ''When I became a Federal judge, I accepted the fact that I would be paid much less than I could earn in private practice. . . . I believed I would be compensated by the satisfaction of serving the public good—the administration of justice. In recent years, however, this sense has been replaced by the distress I feel at being part of a sentencing system that is unnecessarily cruel and rigid.''

We all know that judicial pay is a challenging issue. Indeed, this is why I introduced a bill, S. 787, to restore the many cost of living adjustments that Congress has failed to provide the judiciary, and have joined Chairman HATCH and many other members of the Judiciary Committee in sponsoring S. 1023 to increase the annual salaries of Federal judges and justices. I encourage my colleagues to support these efforts. But I ask them not to make the challenge of judicial pay worse by taking away the intangible compensation that is the satisfaction from serving the public good. Unfortunately, the Feeney amendment has done just that.

I again urge my colleagues to support the JUDGES Act, and I ask unanimous consent that Judge Martin's June 24 op-ed 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, June 24, 2003]

LET JUDGES DO THEIR JOBS

(By John S. Martin Jr.)

I have served as a federal judge for 13 years. Having reached retirement age, I now have the option of continuing to be a judge for the rest of my life, with a reduced workload, or returning to private practice. Although I find my work to be interesting and challenging, I have decided to join the growing number of federal judges who retire to join the private sector.

When I became a federal judge, I accepted the fact that I would be paid much less than I could earn in private practice; judges make less than second-year associates at many law firms, and substantially less than a senior Major League umpire. I believed I would be compensated by the satisfaction of serving the public good—the administration of justice. In recent years, however, this sense has been replaced by the distress I feel at being part of a sentencing system that is unnecessarily cruel and rigid.

For most of our history, our system of justice operated on the premise that justice in sentencing is best achieved by having a sentence imposed by a judge who, fully informed about the offense and the offender, has discretion to impose a sentence within the statutory limits. Although most judges and legal

scholars recognize the need for discretion in sentencing, Congress has continually tried to limit it, initially through the adoption of mandatory-minimum sentencing laws.

Congress's distrust of judicial discretion led to the adoption in 1984 of the Sentencing Reform Act, which created the United States Sentencing Commission. The commission was created on the premise, not unreasonable, that uniformity in sentencing nationwide could be promoted if judges and other criminal law experts provided guidelines for federal judges to follow in imposing sentences. However, Congress has tried to micromanage the work of the commission and has undermined its efforts to provide judges with some discretion in sentencing or to ameliorate excessively harsh terms.

For example, when an extensive study demonstrated that there was no justification for treating crack cocaine as 100 times more dangerous than powdered cocaine, the ratio adopted by Congress in fixing mandatory minimum sentences, the commission proposed reducing the guideline ratios. However, the proposal was withdrawn when Congressional leaders made it clear that Congress would overrule it.

Congress's most recent assault on judicial independence is found in amendments that were tacked onto the Amber Alert bill, which President Bush signed into law on April 30. These amendments are an effort to intimidate judges to follow sentencing guidelines.

From the outset, the sentencing commission recognized the need to avoid too rigid an application of the guideline system and provided that judges would have the power to adjust sentences when circumstances in an individual case warranted. The recent amendments require the commission to amend the guidelines to reduce such adjustments and require that every one be reported to Congress. They also require that departures by district judges be reviewed by the appellate courts with little deference to the sentencing judge.

Congress's disdain for the judiciary is further manifested in a provision that changes the requirement that ''at least three'' of the seven members of the sentencing commission be federal judges to a restriction that ''no more than'' three judges may serve on it. Apparently Congress believes America's sentencing system will be jeopardized if more than three members of the commission have actual experience in imposing sentences.

Every sentence imposed affects a human life and, in most cases, the lives of several innocent family members who suffer as a result of a defendant's incarceration. For a judge to be deprived of the ability to consider all of the factors that go into formulating a just sentence is completely at odds with the sentencing philosophy that has been a hallmark of the American system of justice.

When I took my oath of office 13 years ago I never thought that I would leave the federal bench. While I might have stayed on despite the inadequate pay, I no longer want to be part of our unjust criminal justice system.

VETERAN'S MEMORIAL

Mrs. LINCOLN. Mr. President, I rise today on behalf of all Arkansans to recognize the veterans who have served in our Armed Forces. A beautiful memorial in Saline County, AK, has been built, and will be dedicated on July 10, to honor those who have protected and served our country. All service men and women are being honored, including my father, who served in Korea. He taught me at a very early age to have tremendous respect for those who have fought to defend our freedom. Not only will this memorial honor our veterans, it will also remind future generations of the sacrifices that were made for this great country.

I also wish to recognize those who brought this day together for our Veterans. Judge Lanny Fite, State Representative Dwight Fite, the Saline County Veteran's Board, Jack McCray, Gary Ballard, and many others have given of themselves to make this memorial possible. I am grateful for their efforts to honor the men and women who serve our Nation in uniform. This memorial is a fitting tribute of which Saline County and our entire State can be proud.

ADDITIONAL STATEMENTS

HONORING THE GENERAL MOTORS CORVETTE ASSEMBLY PLANT

● Mr. BUNNING. Mr. President, I have the privilege and honor of rising today to recognize the hard work of those at the Corvette assembly plant in Bowling Green, KY, on the 50th anniversary of the Corvette.

America's love for the Corvette began in 1953, when the first American sports car took over the highways. Since then, the automotive industry has never been the same. Kentucky became part of this American icon in 1981, when an old air-conditioner manufacturing plant, located in western Kentucky, was converted into an automobile assembly plant. The Bowling Green plant holds the proud honor of being the sole Corvette producer. Another state-of-the-art renovation in 1996 once again placed the Bowling Green plant on the road to excellence in preparation for production of the latest Corvettes.

Each year, milestone after milestone, and award on top of award, the Bowling Green plant consistently shines. For 2 years Corvettes produced in Kentucky have captured Motor Trend Magazine's highly respected ''Car of the Year'' designation. In 1992, the Bowling Green plant produced the one-millionth Corvette.

However, the secret of their success lies in the hard work and determination of the Bowling Green team. Without skillful minds and driven hands, innovative ideas and quality-built cars would never come to fruition.

It is not often we have the chance to honor such a milestone. Please join me in congratulating all those who have worked at the General Motors Bowling Green assembly plant. I am pleased they are continuing the Corvette tradition with a Kentucky touch.●

DISTRICT OF COLUMBIA'S FISCAL YEAR 2004 BUDGET REQUEST ACT—PM 43

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 Governmental Affairs:

To the Congress of the United States:

Consistent with my constitutional authority and sections 202(c) and (e) of the District of Columbia Financial Management and Responsibility Assistance Act of 1995 and section 446 of the District of Columbia Self-Governmental Reorganization Act as amended in 1989, I am transmitting the District of Columbia's Fiscal Year 2004 Budget Request Act.

The proposed Fiscal Year 2004 Budget Request Act reflects the major programmatic objectives of the Mayor and the Council of the District of Columbia. For Fiscal Year 2004, the District estimates total revenues and expenditures of $5.6 billion.

GEORGE W. BUSH.
THE WHITE HOUSE, *July 9, 2003.*

MESSAGE FROM THE HOUSE

At 11:06 a.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, in which it requests the concurrence of the Senate:

H.R. 1761. An act to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the ''Garner E. Shriver Post Office Building''.

H.R. 2396. An act to designate the facility of the United States Postal Service located at 1210 Highland Avenue in Durate, California, as the ''Francisco A. Martinez Flores Post Office''.

H.R. 2631. An act to provide that the actuarial value of the prescription drug benefits offered to Medicare eligible enrollees by a plan under the Federal employees health benefits program shall be at least equal to the actuarial value of the prescription drug benefits offered by such plan to its enrollees generally.

H.R. 2658. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

MEASURES REFERRED

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

H.R. 1761. An act to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the ''Garner E. Shriver Post Office Building''; to the Committee on Governmental Affairs.

H.R. 2396. An act to designate the facility of the United States Postal Service located at 1210 Highland Avenue in Durate, California, as the ''Francisco A. Martinez Flores Post Office''; to the Committee on Governmental Affairs.

H.R. 2631. An act to provide that the actuarial value of the prescription drug benefits

offered to Medicare eligible enrollees by a plan under the Federal employees health benefits program shall be at least equal to the actuarial value of the prescription drug benefits offered by such plan to its enrollees generally; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3028. A communication from The Secretary of Veterans Affairs, transmitting, a draft of proposed legislation entitled ''Prisoners of War Benefit Amendments of 2003''; to the Committee on Veterans' Affairs.

EC–3029. A communication from the Secretary of State, transmitting, a draft of proposed legislation entitled ''Compact of Free Association Amendments Act of 2003''; to the Committee on Energy and Natural Resources.

EC–3030. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 2002 Annual Report for the Department of the Interior's Office of Surface Mining; to the Committee on Energy and Natural Resources.

EC–3031. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''North Dakota Regulatory Program'' (ND–046–FOR) received on July 7, 2003; to the Committee on Energy and Natural Resources.

EC–3032. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Texas Regulatory Program'' (TX–043–FOR) received on July 7, 2003; to the Committee on Energy and Natural Resources.

EC–3033. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Illinois Regulatory Program'' (IL–099–FOR) received on July 7, 2003; to the Committee on Energy and Natural Resources.

EC–3034. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Pennsylvania Regulatory Program'' (PA–128–FOR) received on July 7, 2003; to the Committee on Energy and Natural Resources.

EC–3035. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''West Virginia Regulatory Program'' (WV–098–FOR) received on July 7, 2003; to the Committee on Energy and Natural Resources.

EC–3036. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 02–05; to the Committee on Appropriations.

EC–3037. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, Presidential Determination Number 2003–27, relative to waiving prohibition on United States Military Assistance to the Rome Statute Establishing the International Criminal Court; to the Committee on Foreign Relations.

EC–3038. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to a danger pay allowance to US government civilians in Saudi Arabia; to the Committee on Foreign Relations.

EC–3039. A communication from the President of the United States, transmitting, pursuant to law, an annual report on peacekeeping operations and costs of maintaining international stability; to the Committee on Foreign Relations.

EC–3040. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements, other than treaties; to the Committee on Foreign Relations.

EC–3041. A communication from the General Counsel, Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, a report relative to the vacancy, the designation of acting officer, and nomination for the position of Director of Office of Management and Budget, received July 7, 2003; to the Committee on Governmental Affairs.

EC–3042. A communication from the General Counsel, Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, the report of a vacancy and nomination confirmed for the position of Deputy Director of Management; to the Committee on Governmental Affairs.

EC–3043. A communication from the Acting Chairman, National Endowment for the Arts, transmitting, pursuant to law, a report of the Office of Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC–3044. A communication from the Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2002 through February 28, 2003; to the Committee on Governmental Affairs.

EC–3045. A communication from the Chairman of the Board, Pension Benefit Guaranty Corporation, Secretary of Labor, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–3046. A communication from the Administrator, National Aeronautics and Space Administration, Office of the Administrator, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–3047. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15–99, ''Honoraria Temporary Amendment Act of 2003''; to the Committee on Governmental Affairs.

EC–3048. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15–100, ''Lead-Based Paint Abatement and Control Temporary Amendment Act of 2003''; to the Committee on Governmental Affairs.

EC–3049. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15-106, ''Fiscal Year 2004 Budget Support Act of 2003''; to the Committee on Governmental Affairs.

EC–3050. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15-101, ''Dedication and Designation of Commodore, Joshua Barney Drive, N.E., Fort Lincoln Drive, N.E., and Lincoln Drive North, N.E., Act of 2003''; to the Committee on Governmental Affairs.

EC–3051. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, a report of the corrected version of the Postal Rate's Commission's Report to the Congress on FY 2002 International Mail Volumes, Costs, and Revenues; to the Committee on Governmental Affairs.

EC–3052. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–3053. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 7E for Fiscal Years 2000 Through 2003 as of March 31, 2003''; to the Committee on Governmental Affairs.

EC–3054. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Auditor's Review of the University of the District of Columbia's Land-Grant Endowment Fund''; to the Committee on Governmental Affairs.

EC–3055. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, a report containing copies of the Postal Rate Commission's Report to the Congress on FY 2002 International Mail Volumes, Costs, and Revenues; to the Committee on Governmental Affairs.

EC–3056. A communication from the Director, OSHA Directorate of Standards and Guidance, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Occupational Injury and Illness Recording Requirements — Deletion of MSD Column Requirements'' (RIN1218-AC06) received on July 7, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3057. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the Interim Final Regulation'' (RIN0938-AL42) received on July 7, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3058. A communication from the Rules Administrator, Office of General Counsel, Federal Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled ''Clarifying of Release Gratuities—Release Transportation Regulations to More Closely Conform to Statutory Provisions'' (RIN1120-AB21, 68 FR 34301) received on July 7, 2003; to the Committee on the Judiciary.

EC–3059. A communication from the Rules Administrator, Office of General Counsel, Federal Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled ''Release Gratuities, Transportation, and Clothing: Aliens'' (RIN1120-AA93, 68FR34299), received on July 7, 2003; to the Committee on the Judiciary.

EC–3060. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Attorney General, Department of Justice, received on July 7, 2003; to the Committee on the Judiciary.

EC–3061. A communication from the White House Liaison, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Attorney General, Department of Justice, received on July 7, 2003; to the Committee on the Judiciary.

EC–3062. A communication from the White House Liaison, transmitting, pursuant to law, the report of a vacancy in the position of Administrator, Drug Enforcement Administration, received on July 7, 2003; to the Committee on the Judiciary.

EC–3063. A communication from the White House Liaison, transmitting, pursuant to

law, the report of a nomination for the position of Director, Office on Violence Against Women, received on July 7, 2003; to the Committee on the Judiciary.

EC–3064. A communication from the White House Liaison, transmitting, pursuant to law, the report of the designation of acting officer, nomination, and discontinuation of service in acting role for the position of Administrator, Drug Enforcement Administration, received on July 7, 2003; to the Committee on the Judiciary.

EC–3065. A communication from the White House Liaison, transmitting, pursuant to law, the report of a vacancy, designation of acting officer, and nomination for the position of Assistant Attorney General, Department of Justice, received on July 7, 2003; to the Committee on the Judiciary.

EC–3066. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Attorney General, Department of Justice, received on July 7, 2003; to the Committee on the Judiciary.

EC–3067. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination for the position of Associate Attorney General, Department of Justice, received on July 7, 2003; to the Committee on the Judiciary.

EC–3068. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Attorney General, Department of Justice, received on July 7, 2003; to the Committee on the Judiciary.

EC–3069. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Designation of Special Control for Eight Surgical Suture'' (Docket No. 02N-0228) received July 7, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3070. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Skin Protectant Drug Products for Over-the-Counter Use; Final Monograph'' (RIN0910-AA01/ Docket No. 78N-0021) received on July 7, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3071. A communication from the Attorney-Advisor, Department of Transportation, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary for Aviation and International Affairs, received on June 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3072. A communication from an Administrator, Risk Management Agency, Federal Crop Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Common Crop Insurance Regulations; Small Grains Crop Insurance Provisions and Wheat Crop Insurance Winter Coverage Endorsement'' (RIN0564-AB63) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3073. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''2002 Marketing Quotas and Price Support for Flue-Cured Tobacco'' (RIN0560-AG60) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3074. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Salmonella Enteritidis Phage-Type 4; Remove Import Restrictions and Salmonella Enteritidis Serotype Enteritidis; Remove Regulations'' (RIN0579-AB31) received on June 25, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3075. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans and Approval Under Section 112(i) of the Clean Air Act; Virginia; State Operating Permit Program'' (FRL#7519-2) received on June 25, 2003; to the Committee on Environment and Public Works.

EC–3076. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Stay of Authority Under 40 CFR 50.9 (b) Related to Applicability of 1-Hor Ozone Standard'' (FRL#7519-3) received on June 25, 2003; to the Committee on Environment and Public Works.

EC–3077. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''State and Federal Operating Permits Programs: Amendments to Compliance Certification Requirements'' (FRL#7519-5) received on June 25, 2003; to the Committee on Environment and Public Works.

EC–3078. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans for Texas; Approval of Selection 179B Demonstration of Attainment, Carbon Monoxide Motor Vehicle Emissions Budget for Conformity, and Contingency Measure for El Paso Carbon Monoxide Nonattainment Area'' (FRL#7521-2) received on June 25, 2003; to the Committee on Environment and Public Works.

EC–3079. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plas; Mechklenburg County, North Carolina Update to Materials Incorporated by Reference'' (FRL#7511-6) received on June 25, 2003; to the Committee on Environment and Public Works.

EC–3080. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irradiation of Sweetpotatoes from Hawaii'' (APHIS Docket No. 03-062-1) received on June 25, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3081. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Fruits and Vegetables'' (doc. no. 02-026-4) received on June 25, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3082. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus thuringiensis Cry34AB1 and Cry35b1 Proteins and the Genetic Material Necessary for their Production in Corn; Temporary Exemption from the Requirement of a Tolerance'' (FRL# 7310-1) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3083. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Diallyl Sulfides; Exemption from the Requirement of a Tolerance'' (FRL#7303-6) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3084. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Famoxadone; Pesticide Tolerance'' (FRL#7310-9) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3085. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Glyphosate; Pesticide Tolerance; Technical Correction'' (FRL#7316-5) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3086. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fludioxnil; Pesticide Tolerance'' (FRL#7313-7) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3087. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticide Tolerance Nomenclature Changes; Technical Amendment'' (FRL#7308-9) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3088. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticide Tolerance Nomenclature Changes; Technical Amendment'' (FRL#7316-9) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3089. A communication from an Administrator, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Food Stamp Program: Administrative Review Requirements — Food Retailers/Wholesalers'' (RIN0584-AD23) received on July 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations, without amendment:

S. 1382. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

By Mr. CAMPBELL, from the Committee on Appropriations, without amendment:

S. 1383. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2004, and for other purposes.

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. JOHNSON:

S. 1379. A bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SMITH (for himself, Mr. BAYH, Mr. ALLEN, Mr. CRAPO, Mr. HAGEL, Mr. COLEMAN, Mr. BENNETT, Mr. HATCH, Mr. ENZI, Mr. THOMAS, and Mr. FITZGERALD):

S. 1380. A bill to distribute universal service support equitably throughout rural America, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. SMITH, Mr. BREAUX, Mr. MILLER, Mr. CHAMBLISS, Mr. PRYOR, Ms. COLLINS, Ms. LANDRIEU, Mr. SHELBY, and Mr. CRAIG):

S. 1381. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

By Mr. STEVENS:

S. 1382. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. CAMPBELL:

S. 1383. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2004, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. ALLARD:

S. 1384. A bill to amend title 23, United States Code, to provide State and local authorities a means by which to eliminate congestion on the Interstate System; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 1385. A bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. INOUYE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 215

At the request of Mrs. FEINSTEIN, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 239

At the request of Mr. FRIST, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 239, a bill to amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes.

S. 274

At the request of Mr. GRASSLEY, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 274, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 377

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 377 , a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 451

At the request of Ms. SNOWE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 602

At the request of Mr. DORGAN, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 602, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

S. 741

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 741, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 764

At the request of Mr. CAMPBELL, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 764, a bill to extend the authorization of the Bulletproof Vest Partnership Grant Program.

S. 774

At the request of Ms. SNOWE, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 774, a bill to amend the Internal Revenue Code of 1986 to allow the use of completed contract method of accounting in the case of certain long-term naval vessel construction contracts.

S. 966

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 966, a bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes.

S. 970

At the request of Mr. HOLLINGS, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 970 , a bill to amend the Internal Revenue Code of 1986 to preserve jobs and production activities in the United States.

S. 1023

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1023, a bill to increase the annual salaries of justices and judges of the United States.

S. 1032

At the request of Mr. SARBANES, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1032, a bill to provide for alternative transportation in certain federally owned or managed areas that are open to the general public.

S. 1046

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1153

At the request of Mr. SPECTER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1153, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 1210

At the request of Mr. JEFFORDS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1210, a bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

S. 1281

At the request of Mr. GRAHAM of Florida, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1281, a bill to amend title 38, United States Code, to presume additional diseases of former prisoners of war to be service-connected for compensation purposes, to enhance the Dose Reconstruction Program of the Department of Defense, to enhance and fund certain other epidemiological studies, and for other purposes.

S. 1289

At the request of Mr. GRAHAM of Florida, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1289, a bill to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, after Paul Wellstone.

S. 1324

At the request of Mr. GRASSLEY, the name of the Senator from Kentucky

(Mr. BUNNING) was added as a cosponsor of S. 1324, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for agricultural products of the United States, and for other purposes.

S. 1326

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1326, a bill to establish the position of Assistant Secretary of Commerce for Manufacturing in the Department of Commerce.

S. 1333

At the request of Mr. GRASSLEY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1333, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 1358

At the request of Mr. AKAKA, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1358, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosure of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 1360

At the request of Mr. GRAHAM of Florida, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1360, a bill to amend section 7105 of title 38, United States Code, to clarify the requirements for notices of disagreement for appellate review of Department of Veterans Affairs activities.

S. 1368

At the request of Mr. LEVIN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1370

At the request of Mr. SCHUMER, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1370, a bill to amend the Fair Credit Reporting Act to provide for disclosure of credit-scoring information by creditors and consumer reporting agencies.

S. 1374

At the request of Mr. DURBIN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from South Dakota (Mr. JOHNSON), the Senator from Washington (Mrs. MURRAY), the Senator from Arkansas (Mr. PRYOR), the Senator from North Carolina (Mr. EDWARDS), the Senator from North Dakota (Mr. DORGAN) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1374, a bill to provide health care professionals with immediate relief from increased medical malpractice insurance costs and to deal with the root causes of the current medical malpractice insurance crisis.

S. CON. RES. 25

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an ''American Jewish History Month'', and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSON:

S. 1379. A bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States; to the Committee on Banking, Housing and Urban Affairs.

Mr. JOHNSON. Mr. President, I rise today to introduce the American Veterans Disabled for Life Commemorative Coin Act of 2003. This bill will authorize the Secretary of the Treasury to mint a commemorative coin honoring the millions of veterans of the U.S. Armed Forces who were disabled while serving our country. Revenues from the surcharge on the coin would go to the Disabled Veterans' LIFE Memorial Foundation to help cover the costs of building the American Veterans Disabled for Life Memorial in Washington, DC.

The three-acre site for the Memorial is located on Washington Avenue at 2nd Street, SW., across from the U.S. Botanic Gardens, and in full view of the U.S. Capitol Building. Federal legislation for the Memorial, Public Law 106–348, was signed into law by President Bill Clinton on October 24, 2000. Sponsors included Senator JOHN MCCAIN, Senator Max Cleland, Congressman SAM JOHNSON, and Congressman JACK MURTHA. The National Capital Planning Commission unanimously approved the Capitol Hill location on October 10, 2001.

The mission of the Disabled Veterans' LIFE Memorial Foundation is to commemorate the selfless and continuing sacrifice of America's 2.3 million living disabled veterans, ensuring they will always be remembered; to provide all Americans with a place to express their appreciation for the men and women who came home from war bearing the scars of our great Nation's defense, and to serve as an eternal reminder of disabled veterans' honor, service, and sacrifice.

Recent events have brought about a renewed reverence and respect for the men and women who gave so much in service of our Nation. This legislation would help bring national attention to America's disabled veterans, and would serve as a fitting tribute to their sacrifice.

The Disabled Veterans LIFE Memorial Foundation was co-founded in 1996 by the Lois Pope Life Foundation and the Disabled American Veterans. Lois Pope, one of America's leading philanthropists, is the founder and President of the Lois Pope Leaders in Furthering Education Foundation. In addition to supporting veterans programs, this organization provides awards for medical research, scholarships, and summer camp programs. Formed in 1920, the Disabled American Veterans is a nonprofit organization representing America's disabled veterans, their families, and survivors.

The drive to build the Memorial, which is scheduled for completion within the next several years, is well under way, but has a long way to go. Prominent national figures including Retired Army General H. Norman Schwarzkopf, Poet Laureate Dr. Maya Angelou, and New York Giants star defensive end Michael Strahan are lending their support to this effort.

We have an obligation to assure that men and women who each day endure the cost of freedom are never forgotten. The American Veterans Disabled for Life Commemorative Coin Act of 2003 will honor these veterans and help fund the American Veterans Disabled for Life Memorial. I ask my colleagues in the Senate to join me in supporting America's disabled veterans with this important legislation.

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

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

S. 1379

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 ''American Veterans Disabled for Life Commemorative Coin Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the armed forces of the United States have answered the call and served with distinction around the world – from hitting the beaches in World War II in the Pacific and Europe, to the cold and difficult terrain in Korea, the steamy jungles of Vietnam, and the desert sands of the Middle East;

(2) all Americans should commemorate those who come home having survived the ordeal of war, and solemnly honor those who made the ultimate sacrifice in giving their lives for their country;

(3) all Americans should honor the millions of living disabled veterans who carry the scars of war every day, and who have made enormous personal sacrifices defending the principles of our democracy;

(4) in 2000, Congress authorized the construction of the American Veterans Disabled for Life Memorial;

(5) the United States should pay tribute to the Nation's living disabled veterans by

minting and issuing a commemorative silver dollar coin; and

(6) the surcharge proceeds from the sale of a commemorative coin would raise valuable funding for the construction of the American Veterans Disabled for Life Memorial.

SEC. 3. COIN SPECIFICATIONS.

(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 $1 coins in commemoration of disabled American veterans, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 5. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the design selected by the Disabled Veterans' LIFE Memorial Foundation for the American Veterans Disabled for Life Memorial.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2006''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Disabled Veterans' LIFE Memorial Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee.

SEC. 6. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins under this Act only during the calendar year beginning on January 1, 2006.

SEC. 7. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) SURCHARGES.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

(c) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(d) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be paid to the Disabled Veterans' LIFE Memorial Foundation for the purpose of establishing an endowment to support the construction of American Veterans' Disabled for Life Memorial in Washington, D.C.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Disabled Veterans' LIFE Memorial Foundation as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

By Mr. SMITH (for himself, Mr. BAYH, Mr. ALLEN, Mr. CRAPO, Mr. HAGEL, Mr. COLEMAN, Mr. BENNETT, Mr. HATCH, Mr. ENZI, Mr. THOMAS, and Mr. FITZGERALD):

S. 1380. A bill to distribute universal service support equitably throughout rural America, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, today I rise in support of fairness for rural America and introduce the Rural Universal Service Equity Act of 2003.

Universal service is a decades old Federal program intended to keep telephone service available and affordable across America. The Federal Universal Service Program has been a tremendous success. America's telephone network is the envy of the world. However, the program faces challenges, and it is imperfect.

The Rural Universal Service Equity Act addresses an inequity in the way Universal Service support is distributed to rural customers served by larger phone companies. Under the program, only eight States receive funding. Three of those States receive more than 80 percent of the funds and one State receives more than half of all dollars available under the program.

Yet many of the most rural States in America the very States the program was intended to assist—receive no funding at all. North Dakota, South Dakota, Idaho, Iowa, Utah, Kansas, Oklahoma, New Mexico, Nebraska and other rural States receive no funding under this program.

My State of Oregon is an example of the unfairness of the program. Oregon has an average of 36 residents per square mile, according to U.S. Census Bureau data. Oregon has many rural and remote areas but does not receive any funding under this program for larger carriers. However, States with between 60 and 101 residents per square mile or more than twice the density of Oregon—receive 90 percent of the funding.

How could this happen? When the FCC created this program in 1999, it determined which States would be eligible for funding by comparing the average cost of providing telephone service per line in each State to a benchmark tied to the national average cost per line. If a State's average cost of service per line exceeded the benchmark, that State would be eligible for funding. If the average cost was below the national benchmark, it would not be eligible.

This method is skewed, in part, because telephone service in a metropolitan area is less expensive to provide than service in a rural area. Customers in cities are closer to one another, and the same facilities can serve more people at a lower cost.

As a consequence, if you are served by a larger carrier and you live in a State with a city—no matter how rural an area, or no matter how far from the city you live—your State probably receives no support.

This problem is exacerbated because the FCC formula also doesn't fully account for the actual cost of providing service in rural areas with natural obstacles such as mountains, lakes and rivers.

In short, the formula is flawed, and the result is unfair to millions in rural America: Three States that are not among the 15 least populated States—receive more than 80 percent of the fund.

The Rural Universal Service Equity Act of 2003 would make this program fair. The Act directs the FCC to replace the current state-wide average formula with a new formula that distributes funds to telephone company wire centers with the highest cost.

Wire centers are the telephone facilities where all of the telephone lines in a given area converge. And because funds would be directed to high-cost wire centers, as opposed to States with the highest average costs, rural residents would no longer be penalized if they lived in a State with a city hundreds of miles away.

The Act also: directs the FCC to develop rules to implement a program that is equitable among States; delegates to the FCC the determination of what an appropriate benchmark for what a high cost wire center should be; directs the FCC to not increase the size of the current program for high cost carriers; ensures a minimum level of support for States that currently receive funding under the program; and

requires GAO to study and report back to Congress on the need for comprehensive universal service reform.

Finally, I am concerned that the Universal Service Program has challenges beyond the inequities of the program for larger carriers. I look forward to participating in the broader debate on how to reform the Universal Service Program and ensure its long term viability and effectiveness. This bill will help further that debate.

However, broadly reforming the Universal Service Program is complex and divisive. It may take years. And I do not believe the inequities of the program for larger carriers should be allowed to continue while Congress grapples with the broader issues. Millions of rural Americans are being disserved, and we can solve this one problem today.

I urge my colleagues to join me and support the Rural Universal Service Equity Act of 2003. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1380

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 ''Rural Universal Service Equity Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Federal Communications Commission's high cost program for certain carriers provides no Federal support to 42 States.

(2) Federal universal service support should be calculated and targeted to small geographic regions within a State to provide greater assistance to the rural consumers most in need of support.

(3) Local telephone competition and emerging technologies are threatening the viability of Federal universal service support.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To begin consideration of universal service reform.

(2) To spread the benefits of the existing Federal high cost support mechanism more equitably across the nation.

SEC. 3. COMPTROLLER GENERAL REPORT ON NEED TO REFORM HIGH COST SUPPORT MECHANISM.

Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the need to reform the high cost support mechanism for rural, insular, and high cost areas. As part of the report, the Comptroller General shall provide an overview and discuss whether—

(1) existing Federal and State high cost support mechanisms ensure rate comparability between urban and rural areas;

(2) the Federal Communications Commission and the States have taken the necessary steps to remove implicit support;

(3) the existing high cost support mechanism has affected the development of local competition in urban and rural areas; and

(4) amendments to section 254 of the Communications Act of 1934 (47 U.S.C. 254) are necessary to preserve and advance universal service.

SEC. 4. ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT FOR HIGH COST AREAS.

Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end the following new subsection:

''(m) UNIVERSAL SERVICE SUPPORT FOR HIGH COST AREAS.—

''(1) CALCULATING SUPPORT.—In calculating Federal universal service support for eligible telecommunications carriers that serve rural, insular, and high cost areas, the Commission shall, subject to paragraphs (2) and (3), revise the Commission's support mechanism for high cost areas to provide support to each wire center in which the incumbent local exchange carrier's average cost per line for such wire center exceeds the national average cost per line by such amount as the Commission determines appropriate for the purpose of ensuring the equitable distribution of universal service support throughout the United States.

''(2) HOLD HARMLESS SUPPORT.—In implementing this subsection, the Commission shall ensure that no State receives less Federal support calculated under paragraph (1) than the State would have received, up to 10 percent of the total support distributed, under the Commission's support mechanism for high cost areas as in effect on the date of the enactment of this subsection.

''(3) LIMITATION ON TOTAL SUPPORT TO BE PROVIDED.—The total amount of support for all States, as calculated under paragraphs (1) and (2), shall be equivalent to the total support calculated under the Commission's support mechanism for high cost areas as in effect on the date of the enactment of this subsection.

''(4) CONSTRUCTION OF LIMITATION.—The limitation in paragraph (3) shall not be construed to preclude fluctuations in support on the basis of changes in the data used to make such calculations.

''(5) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this subsection, the Commission shall complete the actions (including prescribing or amending regulations) necessary to implement the requirements of this subsection.

''(6) DEFINITION.—In this subsection, the term 'Commission's support mechanism for high cost areas' means sections 54.309 and 54.311 of the Commission's regulations (47 CFR 54.309, 54.311), and regulations referred to in such sections.''.

SEC. 5. NO EFFECT ON RURAL TELEPHONE COMPANIES.

Nothing in this Act shall be construed to affect the support provided to an eligible telecommunications carrier under section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)) that is a rural telephone company (as defined in section 3 of such Act (47 U.S.C. 153)).

By Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. SMITH, Mr. BREAUX, Mr. MILLER, Mr. CHAMBLISS, Mr. PRYOR, Ms. COLLINS, Ms. LANDRIEU, Mr. SHELBY, and Mr. CRAIG):

S. 1381. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Reforestation Tax Act of 2003, and I am pleased to be joined by Senators LINCOLN, SMITH, BREAUX, MILLER, CHAMBLISS, PRYOR, COLLINS, LANDRIEU, SHELBY and CRAIG.

The U.S. forest products industry is essential to the health of the U.S. economy. It employs approximately 1.5 million people, supports an annual payroll of $40.8 billion, and ranks among the top ten manufacturing employers in 46 States. This includes the State of Maine where 89.2 percent of the land is forested. Without fair tax laws, future growth in the industry will occur overseas and more and more landowners will be forced to sell their land for some other higher economic value such as development. The loss of a health and strong forest products industry will have a long-term negative impact on both the economy and the environment.

The legislation I am introducing today partially restores the balance between corporate and private landowners in terms of capital gains tax treatment by reducing the capital gains paid on timber for individuals and corporations. The bill is also intended to encourage the reforestation of timberland, whether it has been harvested or previously cleared for other uses, such as agriculture.

Trees take a long time to grow, anywhere from 15 years to, more typically in Maine, 40 to 50 years. During these years, the grower faces huge risks from fire, pests, weather and inflation, all of which are uninsurable. This legislation helps to mitigate these risks by providing a sliding scale reduction in the amount of taxable gain based on the number of years the asset is held.

Specifically, the bill would change the way that capital gains are calculated for timber by taking the amount of the gain and subtracting three percent for each year the timber was held. The reduction would be capped at 50 percent bringing the effective capital gains tax rate to 7.5 percent for most non-corporate holdings and 17.5 percent for corporations.

Since 1944, the tax code has treated timber as a capital asset, making it eligible for the capital gains tax rate rather than the ordinary income tax rate. This recognized the long-term risk and inflationary gain in timber. Tax bill enacted in 1997 and in 2003 lowered the capital gains rate for individuals, but not for corporations. As a result, individuals face a maximum capital gains rate of 15 percent, while corporations face a maximum rate of 35 percent for the identical asset.

As this difference in rates implies, non-corporate timberland owners receive far more favorable capital gains tax treatment than corporate owners. In addition, pension funds and other tax-exempt entities are also investing in timberland, which only further highlights the disparity that companies face.

Secondly, reforestation expenses are currently taxed at a higher rate in the U.S. than in any other major competitor country. The U.S. domestic forest products industry is already struggling to survive intense competition from the Southern Hemisphere where labor and fiber costs are extremely low, and recent investments from wealthier nations who have built state of the art

pulp and papermaking facilities. While there is little Congress can do to change labor and fiber costs, Congress does have the ability to level the playing field when it comes to taxation.

This legislation encourages both individuals and companies to engage in increased reforestation by allowing all growers of timber to deduct all reforestation expenses in the year such costs are incurred. Currently, only the first $10,000 of reforestation expenses is eligible for a ten percent tax credit and can be amortized over seven years.

Eligible reforestation expenses are the initial expenses to establish a new stand of trees, such as site preparation, the cost of the seedlings, the labor costs required to plant the seedlings and to care for the trees in the first few years, as well as the cost of equipment used in reforestation.

The planning of trees should be encouraged rather than discouraged by our tax system as trees provide a tremendous benefit to the environment, preventing soil erosion, cleansing streams and waterways, providing habitat for numerous species, and absorbing carbon dioxide from the atmosphere.

Tax incentives for planting on private lands will also decrease pressure to obtain timber from ecologically sensitive public lands, allowing these public lands to be protected.

Finally, the bill would notify the passive loss rules for small, closely-held landowners to allow them to deduct normal operating expenses pertaining to management of their timber lands.

I ask my colleagues for their support for private landowners and for the U.S. forest products industry that is so important to the health of the our economy.

By Mr. ALLARD:

S. 1384. A bill to amend title 23, United States Code, to provide State and local authorities a means by which to eliminate congestion on the Interstate System; to the Committee on Environment and Public Works.

Mr. ALLARD. Mr. President, as the month of August nears and the remaining summer days dwindle, many Americans are turning their attention to the highway as they plan family vacations and road trips, setting their sights on destinations that may be close to home or several States away. As they plot their travel plans, they must take into account several road-related factors, including, what route to take, which highway to use and how long it will take to get to their. Road safety, highway quality and congestion will undoubtedly be major considerations that will enter this equation.

In addition to personal mobility, roads also serve as the backbone of the national economy. Our economic success depends on a sound transportation system that efficiently carries goods to and from the marketplace. We must work diligently throughout the upcoming highway re-authorization to provide a policy framework that facilitates access to both markets for goods and places for people.

It is for these reasons, among others, that I rise today to introduce the Freeing Alternatives to Speedy Transportation Act, or for short, the FAST Act—legislation that will ease and alleviate traffic congestion, increase highway capacity, decrease pollution and improve the quality of life for millions of Americans. The legislation has already been introduced in the House of Representatives by Congressman KENNEDY of Minnesota. His bi-partisan version of the bill has gained strong support and momentum, and I thank him for his leadership on transportation matters.

It is easy to say how important our roads are to our success. But the question that has everyone stumped is how to pay for it all. We must look to creative policies that place the State in the drivers seat toward ending the transportation funding dilemma—policies that capitalize on user choice and private financing. The FAST Act provides just that—flexibility and innovation to move forward with important Interstate highway expansion projects—projects that would not be possible with out the FAST Act—to ease congestion and alleviate the strain on our roads.

The FAST Act removes the obstacles that prevent States from collecting user fees on Interstate highway expansion projects. It allows a State to create an authority that collects user fees to finance expansion lanes on Interstates, while building in several protective measures that boost consumer confidence and protection. The fees are collected only on the expansion land—the existing lanes remain open and free of charge. Fees can be used only for the construction of the FAST lane and accompanying structures—the money cannot be diverted to other accounts or projects. It allows the State to collect, as part of the fee, a maintenance reserve for that lane, and guarantees that the fee will be removed once the project is paid off. In other words, the fee pays for the project, ends, and the FAST lane then becomes available to everyone free of the fee. While I realize this bill is but one avenue in bridging our highway policy needs, the options it opens through user-choice and dedicated funding will promote sound State planning and decision making.

The FAST Act has the support of the Colorado Department of Transportation, think tanks, State governments and many others who hope to find new ways to expend highways. Tom Norton, Executive Director of the Colorado Department of Transportation, wrote in support of the FAST Act, ''With nationwide transportation needs continually increasing, Federal Government, as well as the States, must seek new funding sources to keep up with this demand. This needed legislation provides States the ability to explore a new source in order to fund highway expansion.'' In addition to the backing the legislation has received from the Colorado Department of Transportation, both the Minnesota and Washington DOTs support the bill as well.

Earlier this week, the Joint Economic Committee released a white paper, noting ''roads are deteriorating while congestion worsens every year.'' The paper highlights the FAST Act as a new funding mechanism for highways, noting that many economists believe that the new authorization bill should grant the states more flexibility in raising money for funding transportation projects. It concludes by stating that the FAST Act is a modest measure that can help bridge the financing chasm.

Numerous organizations and associations across the country have either endorsed the FAST Act or have strong and positive interest in the legislation. These groups include: Americans for Tax Reform, American Highway Users Alliance, Associated General Contractors of America, National Taxpayers Union, Association for Commuter Transportation, and the American Association of State and Highway Transportation Officials.

As the population of the United States continues to surge and miles traveled by automobiles increase every year, transportation planners must find new and innovative ways to expand highway congestion. With today's budget crisis, this task becomes even more formidable as States look for new ways to stretch every dollar. The FAST Act give States one more tool in their battle against congestion. It creates a new source of revenue through user choice. It give them flexibility in managing construction and maintenance, encourages public-private partnerships and speeds traffic through a series of electronic gateways instead of creating logjams at toll booths. It is one more tool in the toolbox of innovative finance options that will lead to a more efficient, safer highway system.

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

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

STATE OF COLORADO,
DEPARTMENT OF TRANSPORTATION,
Denver, CO, April 25, 2003.

Hon. WAYNE ALLARD,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ALLARD: We are writing in support of ''Fast Act'' H.R. 1767, the fast fees legislation introduced in the House earlier this month by Representatives Mark Kennedy and Adam Smith. We understand that you are considering sponsoring this legislation in the Senate and support your interest in this legislation.

This proposed bill is consistent with legislation that was enacted last year by the Colorado State Legislature. Our state law allowed us to create the Colorado Tolling Enterprise, which enables the state to collect fees for new capacity on state highways. H.R. 1767 would expand our opportunity to create new capacity on interstate highways as well.

The philosophy of H.R. 1767 is consistent with our state law in creating new ways of increasing highway capacity.

With nationwide transportation needs continually increasing, federal government, as well as the states must seek new funding sources to keep up with these demands. This needed legislation provides states the ability to explore a new source in order to fund highway projects.

As you work to reauthorize TEA–21, we encourage you to support legislation that provides greater flexibility to the states as we all seek to improve our highways and meet the needs of a growing state.

Sincerely,

TOM NORTON,
Executive Director, CDOT.
MARGARET ''PEGGY'' CATLIN,
Executive Director, Colorado Tolling Enterprise.

JOINT ECONOMIC COMMITTEE, (CHAIRMAN ROBERT F. BENNETT—ECONOMIC POLICY RESEARCH, JULY 7, 2003)

NEW POSSIBILITIES FOR FINANCING ROADS

It is an unfortunate fact of life that our roads are deteriorating while congestion worsens every year. Fixing our roads will not be easy; billions of dollars will be needed to stave off further declines, and there is little appetite in Congress to raise federal taxes on gasoline. The table below shows that current spending proposals for highways and mass transit for the next six years far outstrip the $218 billion spent on roads and mass transit over the previous six years. The overarching question is how will the federal government fund a significant increase in surface transportation expenditures without raising gasoline taxes.

	Package size (billions $)	Gas tax increase
House Infrastructure and Transportation.	375	Yes, by indexing tax retroactively to 1993 and for subsequent years to inflation.
Congressional 2004 Budget Resolution.	280	No.
Senate Environment and Public Works.	311	?
Administration	247	No.

Source: Congressional Research Service, H. Con. Res. 95.

A NEW FUNDING MECHANISM FOR HIGHWAYS

There are other ways to fund transportation spending increases that should be explored. For instance, many economists believe a new transportation authorization bill should grant the states more flexibility in raising money for funding transportation projects. To that end, Reps. Mark Kennedy (R-MN) and Adam Smith (D-WA) have proposed the Freeing Alternatives for Speedy Transportation (FAST) Act (H.R. 1767). The bill would remove the current prohibition on tolls for federal highways, as well as ensure that states wouldn't be penalized for coming up with innovative ways to fund transportation construction. While toll lanes alone cannot make up the projected shortfall between the various spending proposals and revenues that will be generated by the gas tax, the judicious use of tolls would raise significant revenue.

EFFICIENT TOLLS CAN REDUCE CONGESTION

Ideally, the toll charge would vary based on the current congestion level on the road—the more cars on the road, the higher the price of the toll lane. As the toll increases, drivers will change their behavior; when the toll is relatively high people will use car pools, take mass transit, or postpone unnecessary trips. In high-traffic corridors the market can pay the bulk of the cost of constructing and maintaining the road.

Since roads are not continuously congested, variable tolls reduce traffic and spread it out more evenly over the course of the day. In essence, properly managed fares can reduce the level of lane expansion necessary by maximizing the efficiency of the current infrastructure. The idea of variable pricing for toll lanes is the same principle that dictates lower ticket prices for movie matinees and discounts for ''early bird'' dining specials at restaurants: price differentials over the course of a day can alleviate crowds.

Regardless of the degree of success, innovative congestion pricing would not come close to alleviating the need for new roads. Most large cities desperately need new and improved highways to deal with the immense increases in traffic that have occurred in recent years.

TOLLBOOTHS ARE PASSÉ

When most people think of tolls they associate it with long queues of cars waiting to pay 50¢ to cross a bridge, thereby increasing congestion on roads. In reality, leaps in tolling technology have made cumbersome tollbooths unnecessary. Today, cars can use transponders to electronically pay tolls without stopping the flow of traffic. Transponders are inexpensive and the tolling authority often provides them at no cost to drivers. Drivers can either receive a monthly bill or else pre-pay (anonymously, should they wish) for a certain number of trips.

Proposals, like the FAST Act, encourage states to take advantage of this innovative technology by allowing them to toll new lanes on the federal interstate provided that they use an electronic tolling system.

TOLLS ARE NOT THE SAME AS TAXES

Some politicians resist any legislation that might lead to an expansion of tolled lanes on the principle that tolls merely represent a new form of taxation. However, it is important to note that tolling is not just another name for a tax. When used on newly built lanes financed by toll revenues, tolls serve as a voluntary access charge for drivers who choose to use a lane that is less congested. In essence, when people use a toll lane they are buying time.

Dedicated toll lanes function much the same as FedEx and other next-day shipping companies. Someone wishing to send a package via U.S. mail can do so at an inexpensive price, but the delivery will take longer and the ultimate delivery date will be less predictable. However, someone who absolutely needs a package delivered overnight can guarantee an on-time delivery by paying extra and using FedFx.

Those who worry that states will exploit tolls to fund revenue shortfalls by gouging citizens should be heartened to know that the FAST Act specifically addresses this temptation in its legislation. The FAST Act requires that all revenues raised from tolls be dedicated only to the lanes where the tolls are collected. States are also constrained from charging unreasonably high access charges by the marketplace. Because tolls are added only on new lanes, drivers will always have a choice whether or not to pay the toll. If the toll is set at a price drivers are not willing to pay, the newly added lane will be underutilized, costing the state potential revenue and drawing the ire of its citizens.

TOLLING SUCCESS STORIES

Various permutations of congestion pricing have been in place since Singapore's Area Licensing Scheme was introduced in 1975. With electronic tolling, Singapore managed to reduce the number of single drivers and better utilized its road capacity by distributing trips more evenly throughout the day.

Domestically, there have been several value pricing projects established under the Value Pricing Pilot program. Perhaps the most successful pilot project is the High Occupancy Toll (HOT) lanes on Interstate 15 in San Diego. The program allowed two lanes, previously reserved for carpools with at least two passengers, to provide access to all drivers willing to pay a toll to enter the lane. The toll was set at a level so as to ensure that traffic in the lanes traveled near the speed limit.

The project was immensely successful and led to several dramatic improvements in road performance. The number of people carpooling increased and rates of carpooling violations decreased. Drivers believed that the toll lanes were safer and more reliable. Revenues generated were high enough that an express bus was added to I–15, providing another alternative for commuters. An overwhelming 94 percent of transit riders, 92 percent of carpoolers, and over 70 percent of all commuters felt that congestion pricing was a ''fair'' system given that travelers choose to pay the charge. The managed lanes on I–15 have proven so successful that the San Diego Association of Governments plans to expand its value pricing system by replacing the two HOT lanes with four new HOT lanes.

Most recently, in February 2003 London introduced a congestion-pricing scheme that charges vehicles entering the central city. Though met with intense skepticism by political opponents, the pricing experiment has proven to be even more successful than its designers had anticipated. The average driving speed in London's central city has increased 37 percent and the total number of cars entering Central London has decreased by 20 percent.

FREEDOM FOR STATES

The FAST Act and similar proposals encouraging greater utilization of toll lanes do not seek to mandate the wholesale use of tolls by states. However, states should have the option to use tolls to finance the reconstruction of new roads and should incur no penalty for doing so. In a federal system of government, states should be encouraged to pursue innovative methods for financing and providing essential services to the citizenry, and this is indeed what the FAST Act would achieve. Given the significant difference between proposed highway spending plans and projected gas tax revenues, the FAST Act is a modest measure that can help bridge the chasm.

FURTHER READING

Joint Economic Committee Hearing on Financing Our Nation's Roads—http://jec.senate.gov/hearings/hearings_may06.html.

Getting Unstuck: Three Big Ideas to Get America Moving Again, by Robert D. Atkinson—http://www.ppionline.org/documents/Transportation_1202.pdf.

Privatization Watch—The Surface Transportation Issue—http://www.rppi.org/may03pw.pdf.

JEC publications released in June:

''Putting the U.S. Economy in Global Context,'' June 24, 2003. Compares economic growth—as measured by GDP—in the U.S. and other major economies.

''Prescription Drugs Are Only Reason Why Medicare Needs Reform,'' June 17, 2003. Explains why the program needs market-based reforms to become more financially viable and responsive to patients.

''Health Insurance Spending Growth—How Does Medicare Compare?'' June 10, 2003. Compares cost growth rates of Medicare with various other insurers, such as the Federal. Employee Health Benefits Program (FEHBP).

''Recent Economic Developments: Looking Ahead to Stronger Growth,'' June 3, 2003. Gives an overview of the U.S. economy, including a review of key economic data released in May.

Other recent JEC publications include:

''Medicare Beneficiaries' Links to Drug Coverage.''

''A Primer on Deflation.''

''Economics of the Debt Limit.''

''Dividend Tax Relief and Capped Exclusions.''

''How the Top Individual Income Tax Rate Affects Small Businesses.''

S. 1384

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 ''Freeing Alternatives for Speedy Transportation Act'' or the ''FAST Act''.

SEC. 2. INTERSTATE SYSTEM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 165. FAST fees

''(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System FAST Lanes program under which the Secretary, notwithstanding sections 129 and 301, shall permit a State, or a public or private entity designated by a State, to collect fees to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, support, and other structures necessary for that construction) on the Interstate System.

''(b) ELIGIBILITY.—To be eligible to participate in the program, a State shall submit to the Secretary for approval an application that contains—

''(1) an identification of the additional lanes (including any necessary bridge, support, and other structures) to be constructed on the Interstate System under the program;

''(2) in the case of 1 or more additional lanes that affect a metropolitan area, an assurance that the metropolitan planning organization established under section 134 for the area has been consulted during the planning process concerning the placement and amount of fees on the additional lanes; and

''(3) a facility management plan that includes—

''(A) a plan for implementing the imposition of fees on the additional lanes;

''(B) a schedule and finance plan for construction, operation, and maintenance of the additional lanes using revenues from fees (and, as necessary to supplement those revenues, revenues from other sources); and

''(C) a description of the public or private entities that will be responsible for implementation and administration of the program.

''(c) REQUIREMENTS.—The Secretary shall approve the application of a State for participation in the program after the Secretary determines that, in addition to meeting the requirements of subsection (b), the State has entered into an agreement with the Secretary that provides that—

''(1) fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology;

''(2) all revenues from fees received from operation of FAST lanes shall be used only for—

''(A) debt service relating to the investment in FAST lanes;

''(B) reasonable return on investment of any private entity financing the project, as determined by the State;

''(C) any costs necessary for the improvement, and proper operation and maintenance (including reconstruction, resurfacing, restoration, and rehabilitation), of FAST lanes and existing lanes, if the improvement—

''(i) is necessary to integrate existing lanes with the FAST lanes;

''(ii) is necessary for the construction of an interchange (including an on- or off-ramp) from the FAST lane to connect the FAST lane to—

''(I) an existing FAST lane;

''(II) the Interstate System; or

''(III) a highway; and

''(iii) is carried out before the date on which fees for use of FAST lanes cease to be collected in accordance with paragraph (6); or

''(D) the establishment by the State of a reserve account to be used only for long-term maintenance and operation of the FAST lanes;

''(3) fees may be collected only on and for the use of FAST lanes, and may not be collected on or for the use of existing lanes;

''(4) use of FAST lanes shall be voluntary;

''(5) revenues from fees received from operation of FAST lanes may not be used for any other project (except for establishment of a reserve account described in paragraph (2)(D) or as otherwise provided in this section);

''(6) on completion of the project, and on completion of the use of fees to satisfy the requirements for use of revenue described in paragraph (2), no additional fees shall be collected; and

''(7)(A) to ensure compliance with paragraphs (1) through (5), annual audits shall be conducted for each year during which fees are collected on FAST lanes; and

''(B) the results of each audit shall be submitted to the Secretary.

''(d) APPORTIONMENT.—

''(1) IN GENERAL.—Revenues collected from FAST lanes shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

''(2) NO EFFECT ON STATE EXPENDITURE OF FUNDS.—Nothing in this section affects the expenditure by any State of funds apportioned under this chapter.''.

(b) CONFORMING AMENDMENT.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 164 the following:

''165. FAST fees.''.

(2) Section 301 of title 23, United States Code, is amended by inserting after ''tunnels,'' the following: ''and except as provided in section 165,''.

SEC. 3. TOLL FEASIBILITY.

Section 106 of title 23, United States Code, is amended by adding at the end the following:

''(i) TOLL FEASIBILITY.—The Secretary shall select and conduct a study on a project under this title that is intended to increase capacity, and that has an estimated total cost of at least $50,000,000, to determine whether—

''(1) a toll facility for the project is feasible; and

''(2) privatizing the construction, operation, and maintenance of the toll facility is financially advisable (while retaining legal and administrative control of the portion of the applicable Interstate route).''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1136. Mr. LUGAR proposed an amendment to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes.

SA 1137. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, supra; which was ordered to lie on the table.

SA 1138. Mr. BROWNBACK proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, supra.

SA 1139. Mr. LUGAR (for himself and Mr. BIDEN) proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, supra.

SA 1140. Mr. BINGAMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 1141. Mrs. BOXER (for herself, Mr. CHAFEE, Ms. MIKULSKI, Mrs. MURRAY, Ms. SNOWE, Mr. BIDEN, Mrs. CLINTON, and Mr. LAUTENBERG) proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes.

SA 1142. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 925, supra; which was ordered to lie on the table.

SA 1143. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 925, supra; which was ordered to lie on the table.

SA 1144. Mr. ALLEN (for himself, Mr. ALEXANDER, Mr. GRAHAM, of South Carolina, and Mr. BIDEN) proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, supra.

SA 1145. Mr. BROWNBACK proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, supra.

SA 1146. Mr. SMITH (for himself, Mr. BIDEN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 925, supra; which was ordered to lie on the table.

SA 1147. Mr. BROWNBACK (for himself, Mr. KENNEDY, Mr. LAUTENBERG, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, supra; which was ordered to lie on the table.

SA 1148. Ms. MURKOWSKI (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 925, supra; which was ordered to lie on the table.

SA 1149. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 925, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1136. Mr. LUGAR proposed an amendment to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Foreign Affairs Act, Fiscal Year 2004''.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Foreign Relations Authorizations.

(2) Division B—Foreign Assistance Authorizations.

(3) Division C—Millennium Challenge Assistance.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

DIVISION A—FOREIGN RELATIONS AUTHORIZATIONS

SEC. 100. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This division may be cited as the ''Foreign Relations Authorization Act, Fiscal Year 2004''.

(b) DEFINITIONS.—In this division:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—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.

(2) DEPARTMENT.—The term ''Department'' means the Department of State.

(3) SECRETARY.—Except as otherwise provided in this division, the term ''Secretary'' means the Secretary of State.

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

Subtitle A—Department of State

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

The following amounts are authorized to be appropriated for the Department under ''Administration of Foreign Affairs'' to carry out the authorities, functions, duties, and responsibilities in the conduct of foreign affairs of the United States, and for other purposes authorized by law:

(1) DIPLOMATIC AND CONSULAR PROGRAMS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For ''Diplomatic and Consular Programs'', $4,171,504,000 for the fiscal year 2004.

(B) WORLDWIDE SECURITY UPGRADES.—Of the amounts authorized to be appropriated by subparagraph (A), $646,701,000 for the fiscal year 2004 is authorized to be appropriated for worldwide security upgrades.

(2) CAPITAL INVESTMENT FUND.—For ''Capital Investment Fund'', $157,000,000 for the fiscal year 2004.

(3) EMBASSY SECURITY, CONSTRUCTION AND MAINTENANCE.—For ''Embassy Security, Construction and Maintenance'', $926,400,000 for

the fiscal year 2004, in addition to the amounts authorized to be appropriated for such purpose by section 604 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–453).

(4) REPRESENTATION ALLOWANCES.—For ''Representation Allowances'', $9,000,000 for the fiscal year 2004.

(5) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For ''Protection of Foreign Missions and Officials'', $10,000,000 for the fiscal year 2004.

(6) EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For ''Emergencies in the Diplomatic and Consular Service'', $1,000,000 for the fiscal year 2004.

(7) REPATRIATION LOANS.—For ''Repatriation Loans'', $1,219,000 for the fiscal year 2004.

(8) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For ''Payment to the American Institute in Taiwan'', $19,773,000 for the fiscal year 2004.

(9) OFFICE OF THE INSPECTOR GENERAL.—For ''Office of the Inspector General'', $31,703,000 for the fiscal year 2004.

SEC. 102. UNITED STATES EDUCATIONAL, CULTURAL, AND PUBLIC DIPLOMACY PROGRAMS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated for the Department to carry out public diplomacy programs of the Department under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Foreign Affairs Reform and Restructuring Act of 1998, the Center for Cultural and Technical Interchange Between East and West Act of 1960, the Dante B. Fascell North-South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with the purposes of such Acts:

(1) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—

(i) IN GENERAL.—For the ''Fulbright Academic Exchange Programs'' $127,365,000 for the fiscal year 2004.

(ii) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAM.—Of the amount authorized to be appropriated by clause (i), $5,000,000 to carry out the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—For other educational and cultural exchange programs authorized by law, $274,981,000 for the fiscal year 2004.

(2) NATIONAL ENDOWMENT FOR DEMOCRACY.—For the ''National Endowment for Democracy'', $42,000,000 for the fiscal year 2004.

(3) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the ''Center for Cultural and Technical Interchange Between East and West'', $15,000,000 for the fiscal year 2004.

(4) DANTE B. FASCELL NORTH-SOUTH CENTER.—For the ''Dante B. Fascell North-South Center'', $2,000,000 for the fiscal year 2004.

(b) ASIA FOUNDATION.—Section 404 of The Asia Foundation Act (22 U.S.C. 4403) is amended to read as follows:

''SEC. 404. There are authorized to be appropriated to the Secretary of State $15,000,000 for the fiscal year 2004 for grants to The Asia Foundation pursuant to this title.''.

SEC. 103. INTERNATIONAL ORGANIZATIONS AND CONFERENCES.

(a) ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—There is authorized to be appropriated for ''Contributions to International Organizations'', $1,010,463,000 for the fiscal year 2004 for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(b) CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.—

(1) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated for ''Contributions for International Peacekeeping Activities'', $550,200,000 for the fiscal year 2004 for the Department to carry out the authorities, functions, duties, and responsibilities of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) are authorized to be available until September 30, 2005.

(c) FOREIGN CURRENCY EXCHANGE RATES.—

(1) AUTHORIZATION OF APPROPRIATION.—In addition to amounts authorized to be appropriated by subsection (a), there is authorized to be appropriated for the Department such sums as may be necessary for the fiscal year 2004 to offset adverse fluctuations in foreign currency exchange rates.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to the appropriate congressional committees that such amounts are necessary due to such fluctuations.

SEC. 104. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under ''International Commissions'' for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international commissions and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For ''International Boundary and Water Commission, United States and Mexico''—

(A) for ''Salaries and Expenses'', $31,562,000 for the fiscal year 2004; and

(B) for ''Construction'', $8,901,000 for the fiscal year 2004.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For ''International Boundary Commission, United States and Canada'', $1,261,000 for the fiscal year 2004.

(3) INTERNATIONAL JOINT COMMISSION.—For ''International Joint Commission'', $7,810,000 for the fiscal year 2004.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For ''International Fisheries Commissions'', $20,043,000 for the fiscal year 2004.

SEC. 105. MIGRATION AND REFUGEE ASSISTANCE.

(a) IN GENERAL.—There is authorized to be appropriated for ''Migration and Refugee Assistance'' for authorized activities, $760,197,000 for the fiscal year 2004.

(b) REFUGEES RESETTLING IN ISRAEL.—Of the amount authorized to be appropriated by subsection (a), $50,000,000 is authorized to be available for the fiscal year 2004 for the resettlement of refugees in Israel.

Subtitle B—United States International Broadcasting Activities

SEC. 111. AUTHORIZATIONS OF APPROPRIATIONS.

The following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, and the Foreign Affairs Reform and Restructuring Act of 1998, and to carry out other authorities in law consistent with the purposes of such Acts:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—For ''International Broadcasting Operations'', $561,005,000 for the fiscal year 2004.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For ''Broadcasting Capital Improvements'', $11,395,000 for the fiscal year 2004.

TITLE II—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

Subtitle A—Basic Authorities and Activities

SEC. 201. INTERFERENCE WITH PROTECTIVE FUNCTIONS.

(a) OFFENSE.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

''§ 117. Interference with certain protective functions

''Whoever knowingly and willfully obstructs, resists, or interferes with a Federal law enforcement agent engaged, within the United States or the special maritime territorial jurisdiction of the United States, in the performance of the protective functions authorized by section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709) or section 103 of the Diplomatic Security Act (22 U.S.C. 4802) shall be fined under this title or imprisoned not more than one year, or both.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''117. Interference with certain protective functions.''.

SEC. 202. AUTHORITY TO ISSUE ADMINISTRATIVE SUBPOENAS.

Section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709) is amended by adding at the end the following new subsection:

''(d) ADMINISTRATIVE SUBPOENAS.—

''(1) IN GENERAL.—If the Secretary determines that there is an imminent threat against a person, foreign mission, or international organization protected under the authority of subsection (a)(3), the Secretary may issue in writing, and cause to be served, a subpoena requiring—

''(A) the production of any records or other items relevant to the threat; and

''(B) testimony by the custodian of the items required to be produced concerning the production and authenticity of those items.

''(2) REQUIREMENTS.—

''(A) RETURN DATE.—A subpoena under this subsection shall describe the items required to be produced and shall specify a return date within a reasonable period of time within which the requested items may be assembled and made available. The return date specified may not be less than 24 hours after service of the subpoena.

''(B) NOTIFICATION TO ATTORNEY GENERAL.—As soon as practicable following the issuance of a subpoena under this subsection, the Secretary shall notify the Attorney General of its issuance.

''(C) OTHER REQUIREMENTS.—The following provisions of section 3486 of title 18, United

States Code, shall apply to the exercise of the authority of paragraph (1):

''(i) Paragraphs (4) through (8) of subsection (a).

''(ii) Subsections (b), (c), and (d).

''(3) DELEGATION OF AUTHORITY.—The authority under this subsection may be delegated only to the Deputy Secretary of State.

''(4) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report regarding the exercise of the authority under this subsection during the previous calendar year.''.

SEC. 203. ENHANCED DEPARTMENT OF STATE AUTHORITY FOR UNIFORMED SECURITY OFFICERS.

The State Department Basic Authorities Act of 1956 is amended by inserting after section 37 (22 U.S.C. 2709) the following new section:

''SEC. 37A. PROTECTION OF BUILDINGS AND AREAS IN THE UNITED STATES BY DESIGNATED LAW ENFORCEMENT OFFICERS.

''(a) DESIGNATION OF LAW ENFORCEMENT OFFICERS.—The Secretary of State may designate Department of State uniformed guards as law enforcement officers for duty in connection with the protection of buildings and areas within the United States for which the Department of State provides protective services, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

''(b) POWERS OF OFFICERS.—While engaged in the performance of official duties as a law enforcement officer designated under subsection (a), an officer may—

''(1) enforce Federal laws and regulations for the protection of persons and property;

''(2) carry firearms; and

''(3) make arrests without warrant for any offense against the United States committed in the officer's presence, or for any felony cognizable under the laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such felony in connection with the buildings and areas, or persons, for which the Department of State is providing protective services.

''(c) REGULATIONS.—(1) The Secretary of State may prescribe regulations necessary for the administration of buildings and areas within the United States for which the Department of State provides protective services. The regulations may include reasonable penalties, within the limits prescribed in subsection (d), for violations of the regulations.

''(2) The Secretary shall consult with the Secretary of Homeland Security in prescribing the regulations under paragraph (1).

''(3) The regulations shall be posted and kept posted in a conspicuous place on the property.

''(d) PENALTIES.—A person violating a regulation prescribed under subsection (c) shall be fined under title 18, United States Code, or imprisoned for not more than 30 days, or both.

''(e) TRAINING OFFICERS.—The Secretary of State may also designate firearms and explosives training officers as law enforcement officers under subsection (a) for the limited purpose of safeguarding firearms, ammunition, and explosives that are located at firearms and explosives training facilities approved by the Secretary or are in transit between training facilities and Department of State weapons and munitions vaults.

''(f) ATTORNEY GENERAL APPROVAL.—The powers granted to officers designated under this section shall be exercised in accordance with guidelines approved by the Attorney General.

''(g) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section shall be construed to affect the authority of the Secretary of Homeland Security, the Administrator of General Services, or any Federal law enforcement agency.''.

SEC. 204. REIMBURSEMENT RATE FOR AIRLIFT SERVICES PROVIDED TO THE DEPARTMENT OF STATE.

(a) AUTHORITY.—Subsection (a) of section 2642 of title 10, United States Code, is amended by inserting ''or the Department of State'' after ''Central Intelligence Agency''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT TO SECTION HEADING.—The heading for such section is amended to read as follows:

''§ 2642. Reimbursement rate for airlift services provided to Central Intelligence Agency or Department of State''.

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 157 of such title is amended to read as follows:

''2642. Reimbursement rate for airlift services provided to Central Intelligence Agency or Department of State.''.

SEC. 205. IMMEDIATE RESPONSE FACILITIES.

Section 34(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706(c)) is amended to read as follows:

''(c)(1) The Secretary may waive the notification requirement of subsection (a) and of any other law if the Secretary determines that—

''(A) compliance with the requirement would pose a substantial risk to human health or welfare; or

''(B) doing so is necessary to provide for the establishment, or renovation of, a diplomatic facility in urgent circumstances, except that the notification requirement may not be waived with respect to the reprogramming of more than $10,000,000 for such facility in any one instance.

''(2) In the case of any waiver under this subsection, the Secretary shall transmit a notification of the waiver to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives as soon as is practicable, but not later than 3 days after the obligation of the funds. The notification shall include an explanation of the circumstances warranting the exercise of the waiver.''.

SEC. 206. SECURITY CAPITAL COST SHARING.

(a) AUTHORIZATION.—The first section of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292) is amended by adding at the end the following new subsection:

''(c)(1) The Secretary of State may, in accordance with this section, collect from every agency of the Federal Government that has assigned employees to any United States diplomatic facility a fee for the purpose of constructing new United States diplomatic facilities.

''(2) The Secretary is authorized to determine annually and charge each Federal agency the amount to be collected under paragraph (1) from the agency. To determine such amount, the Secretary may prescribe and use a formula that takes into account the number of employees of each agency, including contractors and locally hired personnel, who are assigned to each United States diplomatic facility and are under the authority of the chief of mission pursuant to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

''(3) The head of an agency charged a fee under this section shall remit the amount of the fee to the Secretary of State through the Intra-Governmental Payment and Collection System or other appropriate means.

''(4) There shall be established on the books of the Treasury an account to be known as the 'Capital Security Cost-Share Program Fund', which shall be administered by the Secretary. There shall be deposited into the account all amounts collected by the Secretary pursuant to the authority under paragraph (1), and such funds shall remain available until expended. The Secretary shall include in the Department of State's Congressional Presentation Document each year an accounting of the sources and uses of the amounts deposited into the account.

''(5) The Secretary shall not collect a fee for an employee of an agency of the Federal Government who is assigned to a United Stated diplomatic facility that is located at a site for which the Secretary has granted a waiver under section 606(a)(2)(B)(i) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865(a)(2)(B)(i)).

''(6) In this subsection—

''(A) the term 'agency of the Federal Government'—

''(i) includes the Interagency Cooperative Administrative Support Service; and

''(ii) does not include the Marine Security Guard; and

''(B) the term 'United States diplomatic facility' has the meaning given that term in section 603 of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865 note).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2004.

SEC. 207. PROHIBITION ON TRANSFER OF CERTAIN VISA PROCESSING FEES.

Section 140(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (8 U.S.C. 1351 note) is amended by inserting before the period at the end the following: '', and shall not be transferred to any other agency''.

SEC. 208. REIMBURSEMENT FROM UNITED STATES OLYMPIC COMMITTEE.

(a) IN GENERAL.—The Secretary shall seek, to the extent practicable, reimbursement from the United States Olympic Committee for security provided to the United States Olympic Team by Diplomatic Security Special Agents during the 2004 Summer Olympics.

(b) OFFSETTING RECEIPT.—Reimbursements provided under subsection (a) shall be deposited as an offsetting receipt to the appropriate Department account.

(c) AVAILABILITY OF FUNDS.—Funds collected under the authority in subsection (a) shall remain available for obligation until September 30, 2005.

Subtitle B—Educational, Cultural, and Public Diplomacy Authorities

SEC. 211. AUTHORITY TO PROMOTE BIOTECHNOLOGY.

The Secretary is authorized to support, by grants, cooperative agreements, or contracts, outreach and public diplomacy activities regarding the benefits of agricultural biotechnology and science-based regulatory systems, and the application of agricultural biotechnology for trade and development purposes. The total amount of grants made pursuant to this authority in a fiscal year shall not exceed $500,000.

SEC. 212. THE UNITED STATES DIPLOMACY CENTER.

Title I of the State Department Basic Authorities Act of 1956 is amended by adding after section 58 (22 U.S.C. 2730) the following new section:

''SEC. 59. THE UNITED STATES DIPLOMACY CENTER.

''(a) ACTIVITIES.—

''(1) SUPPORT AUTHORIZED.—The Secretary of State is authorized to provide by contract, grant, or otherwise, for the performance of appropriate museum visitor and educational outreach services, including organizing conference activities, museum shop services, and food services, in the public exhibit and related space utilized by the United States Diplomacy Center.

''(2) PAYMENT OF EXPENSES.—The Secretary may pay all reasonable expenses of conference activities conducted by the Center, including refreshments and reimbursement of travel expenses incurred by participants.

''(3) RECOVERY OF COSTS.—Any revenues generated under the authority of paragraph (1) for visitor services may be retained, as a recovery of the costs of operating the Center, and credited to any Department of State appropriation.

''(b) DISPOSITION OF UNITED STATES DIPLOMACY CENTER ARTIFACTS AND MATERIALS.—

''(1) PROPERTY OF SECRETARY.—All historic documents, artifacts, or other articles permanently acquired by the Department of State and determined by the Secretary to be suitable for display in the United States Diplomacy Center shall be considered to be the property of the Secretary in the Secretary's official capacity and shall be subject to disposition solely in accordance with this subsection.

''(2) SALE OR TRADE.—Whenever the Secretary makes the determination under paragraph (3) with respect to an item, the Secretary may sell at fair market value, trade, or transfer the item, without regard to the requirements of subtitle I of title 40, United States Code. The proceeds of any such sale may be used solely for the advancement of the Center's mission and may not be used for any purpose other than the acquisition and direct care of collections.

''(3) DETERMINATIONS PRIOR TO SALE OR TRADE.—The determination referred to in paragraph (2), with respect to an item, is a determination that—

''(A) the item no longer serves to further the purposes of the Center established in the collections management policy of the Center; or

''(B) in order to maintain the standards of the collections of the Center, the sale or exchange of the item would be a better use of the item.

''(4) LOANS.—The Secretary may also lend items covered by paragraph (1), when not needed for use or display in the Center, to the Smithsonian Institution or a similar institution for repair, study, or exhibition.''.

SEC. 213. LATIN AMERICA CIVILIAN GOVERNMENT SECURITY PROGRAM.

The Secretary is authorized to establish, through an institution of higher education in the United States that has prior experience in the field, an educational program designed to promote civilian control of government ministries in Latin America that perform national security functions by teaching and reinforcing among young professionals from countries in Latin America the analytical skills, knowledge of civil institutions, and leadership skills necessary to manage national security functions within a democratic civil society.

TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

SEC. 301. FELLOWSHIP OF HOPE PROGRAM.

(a) FELLOWSHIP AUTHORIZED.—Chapter 5 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3981 et seq.) is amended by adding at the end the following new section:

''SEC. 506. FELLOWSHIP OF HOPE.—(a) The Secretary is authorized to establish the Fellowship of Hope Program. Under the program, the Secretary may assign a member of the Service, for not more than one year, to a position with any designated country or designated entity that permits an employee to be assigned to a position with the Department.

''(b) The salary and benefits of a member of the Service shall be paid as described in subsection (b) of section 503 during a period in which such member is participating in the Fellowship of Hope Program. The salary and benefits of an employee of a designated country or designated entity participating in such program shall be paid by such country or entity during the period in which such employee is participating in the program.

''(c) In this section:

''(1) The term 'designated country' means a member country of—

''(A) the North Atlantic Treaty Organization; or

''(B) the European Union.

''(2) The term 'designated entity' means—

''(A) the North Atlantic Treaty Organization; or

''(B) the European Union.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Such Act is amended—

(1) in section 503 (22 U.S.C. 3983)—

(A) in the section heading, by striking ''AND'' and inserting ''FOREIGN GOVERNMENTS, OR''; and

(B) in subsection (a)(1), by inserting after ''body'' the following: '', or with a foreign government under section 506''; and

(2) in section 2, in the table of contents—

(A) by striking the item relating to section 503 and inserting the following:

''Sec. 503. Assignments to agencies, international organizations, foreign governments, or other bodies.'';

and

(B) by inserting after the item relating to section 505 the following:

''Sec. 506. Fellowship of Hope Program.''.

SEC. 302. COST-OF-LIVING ALLOWANCES.

Section 5924(4) of title 5, United States Code, is amended—

(1) in the first sentence of subparagraph (A)—

(A) by inserting ''activities required for successful completion of a grade or course and'' after ''(including''; and

(B) by striking ''not to exceed the total cost to the Government of the dependent attending an adequate school in the nearest locality where an adequate school is available'' and inserting ''subject to the approval of the head of the agency involved'';

(2) by striking subparagraph (B) and inserting the following:

''(B) The travel expenses of dependents of an employee to and from a secondary, post-secondary, or post-baccalaureate educational institution, not to exceed 1 annual trip each way for each dependent, except that an allowance payment under subparagraph (A) of this paragraph may not be made for a dependent during the 12 months following the arrival of the dependent at the selected educational institution under authority contained in this subparagraph.''; and

(3) by adding at the end the following new subparagraph:

''(D) Allowances provided pursuant to subparagraphs (A) and (B) may include, at the election of the employee, payment or reimbursement of the costs incurred to store baggage for the employee's dependent at or in the vicinity of the dependent's school during the dependent's annual trip between the school and the employee's duty station, except that such payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage with the dependent in connection with the annual trip, and such payment or reimbursement shall be in lieu of transportation of the baggage.''.

SEC. 303. ADDITIONAL AUTHORITY FOR WAIVER OF ANNUITY LIMITATIONS ON REEMPLOYED FOREIGN SERVICE ANNUITANTS.

Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) is amended to read as follows:

''(g) The Secretary of State may waive the application of subsections (a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis—

''(1) if, and for so long as, such waiver is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances; or

''(2) if the annuitant is employed in a position for which there is exceptional difficulty in recruiting or retaining a qualified employee.''.

SEC. 304. HOME LEAVE.

Chapter 9 of title I of the Foreign Service Act of 1980 is amended—

(1) in section 901(6) (22 U.S.C. 4081(6)), by striking ''unbroken by home leave'' both places that it appears; and

(2) in section 903(a) (22 U.S.C. 4083(a)), by striking ''18 months'' in the first sentence and inserting ''12 months''.

SEC. 305. INCREASED LIMITS APPLICABLE TO POST DIFFERENTIALS AND DANGER PAY ALLOWANCES.

(a) POST DIFFERENTIALS.—Section 5925(a) of title 5, United States Code, is amended by striking ''25 percent'' in the third sentence and inserting ''35 percent''.

(b) DANGER PAY ALLOWANCES.—Section 5928 of title 5, United States Code, is amended by striking ''25 percent'' both places that it appears and inserting ''35 percent''.

SEC. 306. SUSPENSION OF FOREIGN SERVICE MEMBERS WITHOUT PAY.

(a) SUSPENSION.—Section 610 of the Foreign Service Act of 1980 (22 U.S.C. 4010) is amended by adding at the end the following new subsection:

''(c) SUSPENSION.—(1) The Secretary may suspend a member of the Foreign Service without pay when there is reasonable cause to believe that the member has committed a crime for which a sentence of imprisonment may be imposed and there is a connection between the conduct and the efficiency of the Foreign Service.

''(2) Any member of the Foreign Service for which a suspension is proposed shall be entitled to—

''(A) written notice stating the specific reasons for the proposed suspension;

''(B) a reasonable time to respond orally and in writing to the proposed suspension;

''(C) representation by an attorney or other representative; and

''(D) a final written decision, including the specific reasons for such decision, as soon as practicable.

''(3) Any member suspended under this section may file a grievance in accordance with the procedures applicable to grievances under chapter 11 of this title.

''(4) In the case of a grievance filed under paragraph (3), the review by the Foreign Service Grievance Board—

''(A) shall be limited to a determination of whether the reasonable cause requirement has been fulfilled and whether there is a connection between the conduct and the efficiency of the Foreign Service; and

''(B) may not exercise the authority provided under section 1106(8) of the Foreign Service Act of 1980 (22 U.S.C. 4136(8)).

''(5) In this section:

''(A) The term 'reasonable time' means—

''(i) with respect to a member of the Foreign Service assigned to duty in the United

States, 15 days after receiving notice of the proposed suspension; and

''(ii) with respect to a member of the Foreign Service assigned to duty outside the United States, 30 days after receiving notice of the proposed suspension.

''(B) The term 'suspend' or 'suspension' means the placing of a member of the Foreign Service, for disciplinary reasons, in a temporary status without duties.''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT OF SECTION HEADING.—Such section, as amended by subsection (a), is further amended by inserting ''; suspension'' before the period at the end.

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of contents in section 2 of such Act is amended to read as follows:

''Sec. 610. Separation for cause; suspension.''.

SEC. 307. CLAIMS FOR LOST PAY.

Section 2 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669) is amended by adding at the end the following:

''(o) make administrative corrections or adjustments to an employee's pay, allowances, or differentials, resulting from mistakes or retroactive personnel actions, as well as provide back pay and other categories of payments under section 5596 of title 5, United States Code, as part of the settlement or compromise of administrative claims or grievances filed against the Department.''.

SEC. 308. REPEAL OF REQUIREMENT FOR RECERTIFICATION PROCESS FOR MEMBERS OF THE SENIOR FOREIGN SERVICE.

Section 305(d) of the Foreign Service Act of 1980 (22 U.S.C. 3945(d)) is repealed.

SEC. 309. DEADLINE FOR ISSUANCE OF REGULATIONS REGARDING RETIREMENT CREDIT FOR GOVERNMENT SERVICE PERFORMED ABROAD.

Section 321(f) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1383; 5 U.S.C. 8411 note) is amended by inserting '', not later than 60 days after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Year 2004,'' after ''regulations''.

SEC. 310. SEPARATION OF LOWEST RANKED FOREIGN SERVICE MEMBERS.

Section 2311(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–826; 22 U.S.C. 4010 note) is amended—

(1) by striking ''Not later than 90 days after the date of enactment of this Act, the'' and inserting ''The'';

(2) by striking ''5 percent'' and inserting ''2 percent''; and

(3) by striking ''for 2 or more of the 5 years preceding the date of enactment of this Act'' and inserting ''at least twice in any 5-year period''.

SEC. 311. DISCLOSURE REQUIREMENTS APPLICABLE TO PROPOSED RECIPIENTS OF THE PERSONAL RANK OF AMBASSADOR OR MINISTER.

Section 302(a)(2)(B)(ii)(IV) of the Foreign Service Act of 1980 (22 U.S.C. 3942(a)(2)(B)(ii)(IV)) is amended by inserting before the period at the end the following: '', including information that is required to be disclosed on the Standard Form 278, or any successor financial disclosure report''.

SEC. 312. PROVISION OF LIVING QUARTERS AND ALLOWANCES TO THE UNITED STATES REPRESENTATIVES TO THE UNITED NATIONS.

Section 9 of the United Nations Participation Act of 1945 (22 U.S.C. 287e–1) is amended to read as follows:

''SEC. 9. (a) The Secretary of State may, under such regulations as the Secretary shall prescribe, and notwithstanding subsections (a) and (b) of section 3324 of title 31, United States Code, and section 5536 of title 5, United States Code—

''(1) make available to the Permanent Representative of the United States to the United Nations and the Deputy Permanent Representative of the United States to the United Nations—

''(A) living quarters leased or rented by the United States for a period that does not exceed 10 years; and

''(B) allowances for unusual expenses incident to the operation and maintenance of such living quarters that are similar to expenses authorized to be funded by section 5913 of title 5, United States Code;

''(2) make available living quarters in New York leased or rented by the United States for a period of not more than 10 years to—

''(A) not more than 40 members of the Foreign Service assigned to the United States Mission to the United Nations or other United States representatives to the United Nations; and

''(B) not more than 2 employees who serve at the pleasure of the Permanent Representative of the United States to the United Nations; and

''(3) provide an allowance, as the Secretary considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses with respect to attending any such session.

''(b) The Secretary may not make available living quarters or allowances under subsection (a) to an employee who is occupying living quarters that are owned by such employee.

''(c) Living quarters and allowances provided under subsection (a) shall be considered for all purposes as authorized—

''(1) by chapter 9 of title I of the Foreign Service Act of 1980; and

''(2) by section 5913 of title 5, United States Code.

''(d) The Inspector General for the Department of State and the Broadcasting Board of Governors shall periodically review the administration of this section with a view to achieving cost savings and developing appropriate recommendations to make to the Secretary of State regarding the administration of this section.''.

TITLE IV—INTERNATIONAL ORGANIZATIONS

SEC. 401. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS PEACEKEEPING OPERATIONS AFTER CALENDAR YEAR 2004.

Section 404(b)(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note) is amended by adding at the end the following new clause:

''(v) For assessments made during a calendar year after calendar year 2004, 27.40 percent.''.

SEC. 402. REPORT TO CONGRESS ON IMPLEMENTATION OF THE BRAHIMI REPORT.

(a) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report assessing the progress made to implement the recommendations set out in the Report of the Panel on United Nations Peace Operations, transmitted from the Secretary General of the United Nations to the President of the General Assembly and the President of the Security Council on August 21, 2000 (''Report'').

(b) CONTENT.—The report required by subsection (a) shall include—

(1) an assessment of the United Nations progress toward implementing the recommendations set out in the Report;

(2) a description of the progress made toward strengthening the capability of the United Nations to deploy a civilian police force and rule of law teams on an emergency basis at the request of the United Nations Security Council; and

(3) a description of the policies, programs, and strategies of the United States Government that support the implementation of the recommendations set out in the Report, especially in the areas of civilian police and rule of law.

SEC. 403. MEMBERSHIP ON UNITED NATIONS COUNCILS AND COMMISSIONS.

(a) IN GENERAL.—Section 408 of the Department of State Authorization Act, Fiscal Year 2003 (division A of Public Law 107–228; 116 Stat. 1391; 22 U.S.C. 287 note) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking paragraph (3) and inserting the following:

''(3) to prevent membership on the United Nations Commission on Human Rights or the United Nations Security Council by—

''(A) any member nation the government of which, in the judgment of the Secretary, based on the Department's Annual Country Reports on Human Rights and the Annual Report on International Report on Religious Freedom, consistently violates internationally recognized human rights or has engaged in or tolerated particularly severe violations of religious freedom in that country; or

''(B) any member nation the government of which, as determined by the Secretary—

''(i) is a sponsor of terrorism; or

''(ii) is the subject of United Nations sanctions; and''; and

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

''(4) to advocate that the government of any member nation that the Secretary determines is a sponsor of terrorism or is the subject of United Nations sanctions is not elected to a leadership position in the United Nations General Assembly, the United Nations Commission on Human Rights, the United Nations Security Council, or any other entity of the United Nations.''.

(b) CONFORMING AMENDMENT.—The heading of section 408 is amended to read as follows:

''SEC. 408. MEMBERSHIP ON UNITED NATIONS COMMISSIONS AND COUNCILS AND THE INTERNATIONAL NARCOTICS CONTROL BOARD.''.

TITLE V—DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS

SEC. 501. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) PERIOD OF DESIGNATION.—Section 219(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking ''Subject to paragraphs (5) and (6), a'' and inserting ''A''; and

(B) by striking ''for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B)'' and inserting ''until revoked under paragraph (5) or (6) or set aside pursuant to subsection (c)'';

(2) by striking subparagraph (B) and inserting the following:

''(B) REVIEW OF DESIGNATION UPON PETITION.—

''(i) IN GENERAL.—The Secretary shall review the designation of a foreign terrorist organization under the procedures set forth

in clauses (iii) and (iv) if the designated organization files a petition for revocation within the petition period described in clause (ii).

''(ii) PETITION PERIOD.—For purposes of clause (i)—

''(I) if the designated organization has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

''(II) if the designated organization has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

''(iii) PROCEDURES.—Any foreign terrorist organization that submits a petition for revocation under this subparagraph must provide evidence in that petition that the relevant circumstances described in paragraph (1) have changed in such a manner as to warrant revocation with respect to the organization.

''(iv) DETERMINATION.—

''(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Secretary shall make a determination as to such revocation.

''(II) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

''(III) PUBLICATION OF DETERMINATION.—A determination made by the Secretary under this clause shall be published in the Federal Register.

''(IV) PROCEDURES.—Any revocation by the Secretary shall be made in accordance with paragraph (6).''; and

(3) by adding at the end the following:

''(C) OTHER REVIEW OF DESIGNATION.—

''(i) IN GENERAL.—If in a 4-year period no review has taken place under subparagraph (B), the Secretary shall review the designation of the foreign terrorist organization in order to determine whether such designation should be revoked pursuant to paragraph (6).

''(ii) PROCEDURES.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

''(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish any determination made pursuant to this subparagraph in the Federal Register.''.

(b) ALIASES.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

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

''(b) AMENDMENTS TO A DESIGNATION.—

''(1) IN GENERAL.—The Secretary may amend a designation under this subsection if the Secretary finds that the organization has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another organization.

''(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Subparagraphs (B) and (C) of subsection (a)(2) shall apply to an amended designation upon such publication. Paragraphs (2)(A)(i), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

''(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

''(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) in subsection (a)—

(A) in paragraph (3)(B), by striking ''subsection (b)'' and inserting ''subsection (c)'';

(B) in paragraph (6)(A)—

(i) in the matter preceding clause (i), by striking ''or a redesignation made under paragraph (4)(B)'' and inserting ''at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (B) and (C) of paragraph (4)''; and

(ii) in clause (i), by striking ''or redesignation'';

(C) in paragraph (7), by striking '', or the revocation of a redesignation under paragraph (6),''; and

(D) in paragraph (8)—

(i) by striking '', or if a redesignation under this subsection has become effective under paragraph (4)(B),''; and

(ii) by striking ''or redesignation''; and

(2) in subsection (c), as so redesignated—

(A) in paragraph (1), by striking ''of the designation in the Federal Register,'' and all that follows through ''review of the designation'' and inserting ''in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated organization may seek judicial review'';

(B) in paragraph (2), by inserting '', amended designation, or determination in response to a petition for revocation'' after ''designation'';

(C) in paragraph (3), by inserting '', amended designation, or determination in response to a petition for revocation'' after ''designation''; and

(D) in paragraph (4), by inserting '', amended designation, or determination in response to a petition for revocation'' after ''designation'' each place that term appears.

(d) SAVINGS PROVISION.—For purposes of applying section 219 of the Immigration and Nationality Act on or after the date of enactment of this Act, the term ''designation'', as used in that section, includes all redesignations made pursuant to section 219(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)(B)) prior to the date of enactment of this Act, and such redesignations shall continue to be effective until revoked as provided in paragraph (5) or (6) of section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

TITLE VI—STRENGTHENING OUTREACH TO THE ISLAMIC WORLD

Subtitle A—Public Diplomacy

SEC. 601. PLANS, REPORTS, AND BUDGET DOCUMENTS.

Section 502 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1462) is amended to read as follows:

''SEC. 502. PLANS, REPORTS, AND BUDGET DOCUMENTS.

''(a) INTERNATIONAL INFORMATION STRATEGY.—The President shall develop and report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives an international information strategy. The international information strategy shall consist of public information plans designed for major regions of the world, including a focus on regions with significant Muslim populations.

''(b) NATIONAL SECURITY STRATEGY.—In preparation of the report required by section 108 of the National Security Act of 1947 (50 U.S.C. 404a), the President shall ensure that the report includes a comprehensive discussion of how public diplomacy activities are integrated into the national security strategy of the United States, and how such activities are designed to advance the goals and objectives identified in the report pursuant to section 108(b)(1) of that Act.

''(c) PLANS REGARDING DEPARTMENT ACTIVITIES.—

''(1) STRATEGIC PLAN.—In the updated and revised strategic plan for program activities of the Department required to be submitted under section 306 of title 5, United States Code, the Secretary shall identify how public diplomacy activities of the Department are designed to advance each strategic goal identified in the plan.

''(2) ANNUAL PERFORMANCE PLAN.—The Secretary shall ensure that each annual performance plan for the Department required by section 1115 of title 31, United States Code, includes a detailed discussion of public diplomacy activities of the Department.

''(3) BUREAU AND MISSION PERFORMANCE PLAN.—The Secretary shall ensure that each Bureau Performance Plan and each Mission Performance Plan, under regulations of the Department, includes an extensive public diplomacy component.''.

SEC. 602. RECRUITMENT AND TRAINING.

(a) IN GENERAL.—Chapter 7 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4021 et seq.) is amended by adding at the end the following new section:

''SEC. 709. PUBLIC DIPLOMACY TRAINING.

''The Secretary shall ensure that public diplomacy is an important component of training at all levels of the Foreign Service.''.

(b) JUNIOR OFFICER TRAINING.—Section 703(b) of the Foreign Service Act of 1980 (22 U.S.C. 4023(b)) is amended in the first sentence by inserting ''public diplomacy,'' before ''consular''.

(c) AMENDMENT TO TABLE OF CONTENTS.—The table of contents in section 2 of the Foreign Service Act of 1980 is amended by inserting at the end of items relating to chapter 7 the following new item:

''Sec. 709. Public Diplomacy Training.''.

SEC. 603. REPORT ON FOREIGN LANGUAGE BRIEFINGS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees containing an evaluation of the feasibility of conducting regular, televised briefings by personnel of the Department of State about United States foreign policy in major foreign languages, including Arabic, Farsi, Chinese, French, and Spanish.

Subtitle B—Strengthening United States Educational and Cultural Exchange Programs

SEC. 611. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE COUNTRY.—The term ''eligible country'' means a country or entity in Africa, the Middle East, South Asia, or Southeast Asia that—

(A) has a significant Muslim population; and

(B) is designated by the Secretary as an eligible country.

(2) SECONDARY SCHOOL.—The term ''secondary school'' means a school that serves

students in any of grades 9 through 12 or equivalent grades in a foreign education system, as determined by the Secretary, in consultation with the Secretary of Education.

(3) UNITED STATES ENTITY.—The term ''United States entity'' means an entity that is organized under laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or American Samoa.

(4) UNITED STATES SPONSORING ORGANIZATION.—The term ''United States sponsoring organization'' means a nongovernmental organization based in the United States and controlled by a citizen of the United States or a United States entity that is designated by the Secretary, pursuant to regulations, to carry out a program authorized by section 612.

SEC. 612. EXPANSION OF EDUCATIONAL AND CULTURAL EXCHANGES.

(a) STATEMENT OF POLICY.—The purpose of this section is to provide for the expansion of international educational and cultural exchange programs with eligible countries.

(b) SPECIFIC PROGRAMS.—In carrying out the purpose of this section, the Secretary is authorized to conduct or initiate the following programs in eligible countries:

(1) FULBRIGHT EXCHANGE PROGRAM.—The Secretary is authorized to substantially increase the number of awards under the J. William Fulbright Educational Exchange Program. The Secretary shall take all appropriate steps to increase support for binational Fulbright commissions in eligible countries in order to enhance academic and scholarly exchanges with those countries.

(2) HUBERT H. HUMPHREY FELLOWSHIPS.—The Secretary is authorized to substantially increase the number of Hubert H. Humphrey Fellowships awarded to candidates from eligible countries.

(3) SISTER INSTITUTIONS PROGRAMS.—The Secretary is authorized to encourage the establishment of ''sister institution'' programs between United States and foreign institutions (including cities and municipalities) in eligible countries, in order to enhance mutual understanding at the community level.

(4) LIBRARY TRAINING EXCHANGES.—The Secretary is authorized to develop a demonstration program to assist governments in eligible countries to establish or upgrade their public library systems to improve literacy. The program may include training in the library sciences.

(5) INTERNATIONAL VISITORS PROGRAM.—The Secretary is authorized to expand the number of participants in the International Visitors Program from eligible countries.

(6) YOUTH AMBASSADORS.—The Secretary is authorized to establish a program for visits by middle and secondary school students to the United States during school holidays in their home country for periods not to exceed 4 weeks. Participating students shall reflect the economic and geographic diversity of their countries. Activities shall include cultural and educational activities designed to familiarize participating students with American society and values.

(7) EDUCATIONAL REFORM.—The Secretary is authorized to enhance programs that seek to improve the quality of primary and secondary school systems in eligible countries and promote civic education, to foster understanding of the United States, and through teachers exchanges, teacher training, textbook modernization, and other efforts.

(8) PROMOTION OF RELIGIOUS FREEDOM.—The Secretary is authorized to establish a program to promote dialogue and exchange among leaders and scholars of all faiths from the United States and eligible countries.

(9) BRIDGING THE DIGITAL DIVIDE.—The Secretary is authorized to establish a program to help foster access to information technology among underserved populations and civil society groups in eligible countries.

(10) SPORTS DIPLOMACY.—The Secretary is authorized to expand efforts to promote United States public diplomacy interests in eligible countries and elsewhere through sports diplomacy. Initiatives under this program may include—

(A) sending individuals from the United States to train foreign athletes or teams;

(B) sending individuals from the United States to assist countries in establishing or improving their sports, health, or physical education programs;

(C) providing assistance to athletic governing bodies in the United States to support efforts of such organizations to foster cooperation with counterpart organizations abroad; and

(D) utilizing United States professional athletes and other well-known United States sports personalities in support of public diplomacy goals and activities.

(11) COLLEGE SCHOLARSHIPS.—

(A) IN GENERAL.—The Secretary is authorized to establish a program to offer scholarships to permit an individual to attend an eligible college or university if such individual—

(i) has graduated from secondary school; and

(ii) is a citizen or resident of an eligible country.

(B) ELIGIBLE COLLEGE OR UNIVERSITY DEFINED.—In this paragraph the term ''eligible college or university'' means a college or university that—

(i) is primarily located in an eligible country;

(ii) is organized under laws of the United States, a State, or the District of Columbia;

(iii) is accredited by an accrediting agency recognized by the Secretary of Education; and

(iv) is not controlled by the government of an eligible country.

SEC. 613. SECONDARY EXCHANGE PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to establish an international exchange visitor program, modeled on the Future Leaders Exchange Program, under which eligible secondary school students from eligible countries would—

(1) attend public secondary school in the United States;

(2) live with an American host family; and

(3) participate in activities designed to promote a greater understanding of American and Islamic values and culture.

(b) ELIGIBILITY CRITERIA FOR STUDENTS.—A student is eligible to participate in the program authorized under subsection (a) if the student—

(1) is from an eligible country;

(2) is at least 15 years of age but not more than 18 years of age at the time of enrollment in the program;

(3) is enrolled in a secondary school in an eligible country;

(4) has completed not more than 11 years of primary and secondary education, exclusive of kindergarten;

(5) demonstrates maturity, good character, and scholastic aptitude, and has the proficiency in the English language necessary to participate in the program;

(6) has not previously participated in an exchange program in the United States sponsored by the United States Government; and

(7) is not inadmissible under the Immigration and Nationality Act or any other law related to immigration and nationality.

(c) PROGRAM REQUIREMENTS.—The program authorized by subsection (a) shall satisfy the following requirements:

(1) COMPLIANCE WITH ''J'' VISA REQUIREMENTS.—Participants in the program shall satisfy all requirements applicable to the admission of nonimmigrant aliens described in section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)). The program shall be considered a designated exchange visitor program for purposes of the application of section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(2) BROAD PARTICIPATION.—Whenever appropriate, special provisions shall be made to ensure the broadest possible participation in the program, particularly among females and less advantaged citizens of eligible countries.

(3) REGULAR REPORTING TO THE SECRETARY.—Each United States sponsoring organization shall report regularly to the Secretary information about the progress made by the organization in implementation of the program.

SEC. 614. AUTHORIZATION OF APPROPRIATIONS.

Of the amounts authorized to be appropriated for educational and cultural exchange programs under section 102(a)(1), there is authorized to be made available to the Department $30,000,000 for the fiscal year 2004 to carry out programs authorized by this subtitle.

Subtitle C—Fellowship Program

SEC. 621. SHORT TITLE.

This subtitle may be cited as the ''Edward R. Murrow Fellowship Act''.

SEC. 622. FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—There is established a fellowship program pursuant to which the Broadcasting Board of Governors shall provide fellowships to foreign national journalists while they serve, for a period of 6 months, in positions at the Voice of America, RFE/RL, Incorporated, or Radio Free Asia.

(b) DESIGNATION OF FELLOWSHIPS.—Fellowships under this subtitle shall be known as ''Edward R. Murrow Fellowships''.

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this subtitle shall be provided in order to allow each recipient (in this subtitle referred to as a ''Fellow'') to serve on a short-term basis at the Voice of America, RFE/RL, Incorporated, or Radio Free Asia in order to obtain direct exposure to the operations of professional journalists.

SEC. 623. FELLOWSHIPS.

(a) LIMITATION.—Not more than 20 fellowships may be provided under this subtitle each fiscal year.

(b) REMUNERATION.—The Board shall determine, taking into consideration the position in which each Fellow will serve and the Fellow's experience and expertise, the amount of remuneration the Fellow will receive for service under this subtitle.

(c) HOUSING AND TRANSPORTATION.—The Broadcasting Board of Governors shall, pursuant to regulations—

(1) provide housing for each Fellow while the Fellow is serving abroad, including housing for family members if appropriate; and

(2) pay the costs and expenses incurred by each Fellow for travel between the journalist's country of nationality or last habitual residence and the offices of the Voice of America, RFE/RL, Incorporated, or Radio Free Asia and the country in which the Fellow serves, including (where appropriate) for travel of family members.

SEC. 624. ADMINISTRATIVE PROVISIONS.

(a) DETERMINATIONS.—The Broadcasting Board of Governors shall determine which of the individuals selected by the Board will serve at Voice of America, RFE/RL, Incorporated, or Radio Free Asia and the position in which each will serve.

(b) AUTHORITIES.—Fellows may be employed—

(1) under a temporary appointment in the Civil Service;

(2) under a limited appointment in the Foreign Service; or

(3) by contract under the provisions of section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)).

(c) FUNDING.—Funds available to the Broadcasting Board of Governors shall be used for the expenses incurred in carrying out this subtitle.

TITLE VII—INTERNATIONAL PARENTAL CHILD ABDUCTION PREVENTION

SEC. 701. SHORT TITLE.

This title may be cited as the ''International Parental Child Abduction Prevention Act of 2003''.

SEC. 702. INADMISSIBILITY OF ALIENS SUPPORTING INTERNATIONAL CHILD ABDUCTORS AND RELATIVES OF SUCH ABDUCTORS.

(a) IN GENERAL.—Section 212(a)(10)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)(ii)) is amended by striking subclause (III) and inserting the following:

''(III) is a spouse (other than a spouse who is the parent of the abducted child), son or daughter (other than the abducted child), grandson or granddaughter (other than the abducted child), parent, grandparent, sibling, cousin, uncle, aunt, nephew, or niece of an alien described in clause (i), or is a spouse of the abducted child described in clause (i), if such person has been designated by the Secretary of State, at the Secretary of State's sole and unreviewable discretion,

is inadmissible until the child described in clause (i) is surrendered to the person granted custody by the order described in that clause, and such person and child are permitted to return to the United States or such person's place of residence, or until the abducted child is 21 years of age.''.

(b) AUTHORITY TO CANCEL CERTAIN DESIGNATIONS; IDENTIFICATION OF ALIENS SUPPORTING ABDUCTORS AND RELATIVES OF ABDUCTORS; ENTRY OF ABDUCTORS AND OTHER INADMISSIBLE ALIENS IN THE CONSULAR LOOKOUT AND SUPPORT SYSTEM.—Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)) is amended by adding at the end the following:

''(iv) AUTHORITY TO CANCEL CERTAIN DESIGNATIONS.—The Secretary of State may, at the Secretary of State's sole and unreviewable discretion, at any time, cancel a designation made pursuant to clause (ii)(III).

''(v) IDENTIFICATION OF ALIENS SUPPORTING ABDUCTORS AND RELATIVES OF ABDUCTORS.—In all instances in which the Secretary of State knows that an alien has committed an act described in clause (i), the Secretary of State shall take appropriate action to identify the individuals who are potentially inadmissible under clause (ii).

''(vi) ENTRY OF ABDUCTORS AND OTHER INADMISSIBLE PERSONS IN CONSULAR LOOKOUT AND SUPPORT SYSTEM.—In all instances in which the Secretary of State knows that an alien has committed an act described in clause (i), the Secretary of State shall take appropriate action to cause the entry into the Consular Lookout and Support System of the name or names of, and identifying information about, such individual and of any persons identified pursuant to clause (v) as potentially inadmissible under clause (ii).

''(vii) DEFINITIONS.—In this subparagraph:

''(I) CHILD.—The term 'child' means a person under 21 years of age regardless of marital status.

''(II) SIBLING.—The term 'sibling' includes step-siblings and half-siblings.''.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and each February 1 thereafter for 4 years, the Secretary shall submit to the Committee on International Relations and the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate, an annual report that describes the operation of section 212(a)(10)(C) of the Immigration and Nationality Act, as amended by this section, during the prior calendar year to which the report pertains.

(2) CONTENT.—Each annual report submitted in accordance with paragraph (1) shall specify, to the extent that corresponding data is reasonably available, the following:

(A) The number of cases known to the Secretary of State, disaggregated according to the nationality of the aliens concerned, in which a visa was denied to an applicant on the basis of the inadmissibility of the applicant under section 212(a)(10)(C) of the Immigration and Nationality Act (as so amended) during the reporting period.

(B) The cumulative total number of cases known to the Secretary of State, disaggregated according to the nationality of the aliens concerned, in which a visa was denied to an applicant on the basis of the inadmissibility of the applicant under section 212(a)(10)(C) of the Immigration and Nationality Act (as so amended) since the beginning of the first reporting period.

(C) The number of cases known to the Secretary of State, disaggregated according to the nationality of the aliens concerned, in which the name of an alien was placed in the Consular Lookout and Support System on the basis of the inadmissibility of the alien or potential inadmissibility under section 212(a)(10)(C) of the Immigration and Nationality Act (as so amended) during the reporting period.

(D) The cumulative total number of names, disaggregated according to the nationality of the aliens concerned, known to the Secretary of State to appear in the Consular Lookout and Support System on the basis of the inadmissibility of the alien or potential inadmissibility under section 212(a)(10)(C) of the Immigration and Nationality Act (as so amended) at the end of the reporting period.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. REPEAL OF REQUIREMENT FOR SEMI-ANNUAL REPORT ON EXTRADITION OF NARCOTICS TRAFFICKERS.

Section 3203 of the Emergency Supplemental Act, 2000 (division B of Public Law 106–246; 114 Stat. 575) is repealed.

SEC. 802. TECHNICAL AMENDMENTS TO THE UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994.

Section 304(c) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203(c)) is amended—

(1) in the first sentence, by striking ''Director's'' and inserting ''Secretary's''; and

(2) in the last sentence, by striking ''Director'' and inserting ''Secretary''.

SEC. 803. FOREIGN LANGUAGE BROADCASTING.

(a) IN GENERAL.—During the 1-year period following the date of enactment of this Act, the Broadcasting Board of Governors may not eliminate foreign language broadcasting in any of the following languages: Bulgarian, Czech, Estonian, Hungarian, Latvian, Lithuanian, Polish, Slovene, Slovak, Romanian, Croatian, Armenian, and Ukrainian.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall report to the appropriate congressional committees on the state of democratic governance and freedom of the press in the following countries: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovenia, Slovakia, Romania, Croatia, Armenia, and Ukraine.

(c) SENSE OF CONGRESS.—It is the sense of Congress that providing surrogate broadcasting in countries that have a stable, democratic government and a vibrant, independent press with legal protections should not be a priority of United States international broadcasting efforts.

SEC. 804. FELLOWSHIPS FOR MULTIDISCIPLINARY TRAINING ON NONPROLIFERATION ISSUES.

(a) FELLOWSHIPS AUTHORIZED.—In carrying out international exchange programs, the Secretary shall design and implement a program to encourage eligible students to study at an accredited United States institution of higher education in an appropriate graduate program.

(b) ELIGIBLE STUDENT DEFINED.—In this section, the term ''eligible student'' means a citizen of a foreign country who—

(1) has completed undergraduate education; and

(2) is qualified (as determined by the Secretary).

(c) APPROPRIATE GRADUATE PROGRAM DEFINED.—In this section, the term ''appropriate graduate program'' means a graduate level program that provides for the multidisciplinary study of issues relating to weapons nonproliferation and includes training in—

(1) diplomacy;

(2) arms control;

(3) multilateral export controls; or

(4) threat reduction assistance.

(d) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs under section 1102, $2,000,000 may be available to carry out this section.

SEC. 805. REQUIREMENT FOR REPORT ON UNITED STATES POLICY TOWARD HAITI.

(a) FINDINGS.—Congress makes the following findings:

(1) Haiti is plagued by chronic political instability, economic and political crises, and significant social challenges.

(2) The United States has a political and economic interest and a humanitarian and moral responsibility in assisting the Government and people of Haiti in resolving the country's problems and challenges.

(3) The situation in Haiti is increasingly cause for alarm and concern, and a sustained, coherent, and active approach by the United States Government is needed to make progress toward resolving Haiti's political and economic crises.

(b) REQUIREMENT FOR REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury, shall submit to the appropriate congressional committees a report that describes United States policy toward Haiti. The report shall include the following:

(1) A description of the activities carried out by the United States Government to resolve Haiti's political crisis and to promote the holding of free and fair elections in Haiti at the earliest possible date.

(2) A description of the activities that the United States Government anticipates initiating to resolve the political crisis and promote free and fair elections in Haiti.

(3) An assessment of whether Resolution 822 issued by the Permanent Council of the Organization of American States on September 4, 2002, is still an appropriate framework for a multilateral approach to resolving the political and economic crises in Haiti, and of the likelihood that the Organization of American States will develop a new framework to replace Resolution 822.

(4) A description of the status of efforts to release the approximately $146,000,000 in loan funds that have been approved by the Inter-

American Development Bank to Haiti for the purposes of rehabilitating rural roads, reorganizing the health sector, improving potable water supply and sanitation, and providing basic education, a description of any obstacles that are delaying the release of the loan funds, and recommendations for overcoming such obstacles, including whether any of the following would facilitate the release of such funds:

(A) Establishing an International Monetary Fund staff monitoring program in Haiti.

(B) Obtaining bridge loans or other sources of funding to pay the cost of any arrears owed by the Government of Haiti to the Inter-American Development Bank.

(C) Providing technical assistance to the Government of Haiti to permit the Government to meet international financial transparency requirements.

SEC. 806. VICTIMS OF VIOLENT CRIME ABROAD.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on services overseas for United States citizens or nationals of the United States who are victims of violent crime abroad. The report shall include—

(1) a proposal for providing increased services to victims of violent crime, including information on—

(A) any organizational changes necessary to provide such an increase; and

(B) the personnel and budgetary resources necessary to provide such an increase; and

(2) proposals for funding and administering financial compensation for United States citizens or nationals of the United States who are victims of violent crime outside the United States similar to victims compensation programs under the terms of the Crime Victims Fund (42 U.S.C. 10601).

(b) ESTABLISHMENT OF A DATABASE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a database to maintain statistics on incidents of violent crime against United States citizens or nationals of the United States abroad that are reported to United States missions.

(c) DEFINITIONS.—In this section—

(1) the term ''violent crime'' means murder, non-negligent manslaughter, forcible rape, robbery, or aggravated assault; and

(2) the term ''national of the United States'' has the same meaning given the term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

SEC. 807. LIMITATION ON USE OF FUNDS RELATING TO UNITED STATES POLICY WITH RESPECT TO JERUSALEM AS THE CAPITAL OF ISRAEL.

(a) LIMITATION ON USE OF FUNDS FOR CONSULATE IN JERUSALEM.—None of the funds authorized to be appropriated by this division may be expended for the operation of any United States consulate or diplomatic facility in Jerusalem that is not under the supervision of the United States Ambassador to Israel.

(b) LIMITATION ON USE OF FUNDS FOR PUBLICATIONS.—None of the funds authorized to be appropriated by this division may be available for the publication of any official document of the United States that lists countries, including Israel, and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. 808. REQUIREMENT FOR ADDITIONAL REPORT CONCERNING EFFORTS TO PROMOTE ISRAEL'S DIPLOMATIC RELATIONS WITH OTHER COUNTRIES.

Section 215(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1366) is amended by inserting ''and again not later than 60 days after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Year 2004,'' after ''Act,'' in the matter preceding paragraph (1).

SEC. 809. UNITED STATES POLICY REGARDING THE RECOGNITION OF A PALESTINIAN STATE.

Congress reaffirms the policy of the United States as articulated in President George W. Bush's speech of June 24, 2002, regarding the criteria for recognizing a Palestinian state. Congress reiterates the President's statement that the United States will not recognize a Palestinian state until the Palestinians elect new leadership that—

(1) is not compromised by terrorism;

(2) demonstrates, over time, a firm and tangible commitment to peaceful co-existence with the State of Israel and an end to anti-Israel incitement; and

(3) takes appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza, including dismantling terrorist infrastructures, confiscating unlawful weaponry, and establishing a new security entity that cooperates fully with appropriate Israeli security organizations.

SEC. 810. MIDDLE EAST BROADCASTING NETWORK.

(a) AUTHORITY.—The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended by inserting after section 309 the following new section:

''SEC. 310. MIDDLE EAST BROADCASTING NETWORK.

''(a) AUTHORITY.—Grants authorized under section 305 shall be available to make annual grants to a Middle East Broadcasting Network for the purpose of carrying out radio and television broadcasting to the Middle East region.

''(b) FUNCTION.—The Middle East Broadcasting Network shall provide radio and television programming to the Middle East region consistent with the broadcasting standards and broadcasting principles set forth in section 303 of this Act.

''(c) GRANT AGREEMENT.—Any grant agreement or grants under this section shall be subject to the following limitations and restrictions:

''(1) The Board may not make any grant to the nonprofit corporation, Middle East Broadcasting Network, unless its certificate of incorporation provides that—

''(A) the Board of Directors of the Middle East Broadcasting Network shall consist of the members of the Broadcasting Board of Governors established under section 304 and of no other members; and

''(B) such Board of Directors shall make all major policy determinations governing the operation of the Middle East Broadcasting Network, and shall appoint and fix the compensation of such managerial officers and employees of the Middle East Broadcasting Network as it considers necessary to carry out the purposes of the grant provided under this title, except that no officer or employee may be paid a salary or other compensation in excess of the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(2) Any grant agreement under this section shall require that any contract entered into by the Middle East Broadcasting Network shall specify that obligations are assumed by the Middle East Broadcasting Network and not the United States Government.

''(3) Any grant agreement shall require that any lease agreement entered into by the Middle East Broadcasting Network shall be, to the maximum extent possible, assignable to the United States Government.

''(4) Grants awarded under this section shall be made pursuant to a grant agreement which requires that grant funds be used only for activities consistent with this section, and that failure to comply with such requirements shall permit the grant to be terminated without fiscal obligation to the United States.

''(5) Duplication of language services and technical operations between the Middle East Broadcasting Network (including Radio Sawa), RFE/RL, and the International Broadcasting Bureau will be reduced to the extent appropriate, as determined by the Board.

''(d) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make the Middle East Broadcasting Network a Federal agency or instrumentality, nor shall the officers or employees of the Middle East Broadcasting Network be deemed to be officers or employees of the United States Government.

''(e) AUDIT AUTHORITY.—

''(1) IN GENERAL.—Such financial transactions of the Middle East Broadcasting Network as relate to functions carried out under this section may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Middle East Broadcasting Network are normally kept.

''(2) ACCESS TO RECORDS.—Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, papers, and property belonging to or in use by the Middle East Broadcasting Network pertaining to such financial transactions as necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Middle East Broadcasting Network shall remain in the custody of the Middle East Broadcasting Network.

''(3) INSPECTOR GENERAL.—Notwithstanding any other provisions of law, the Inspector General of the Department of State and the Foreign Service is authorized to exercise the authorities of the Inspector General Act with respect to the Middle East Broadcasting Network.''.

(b) CONFORMING AMENDMENTS.—

(1) AUTHORITIES OF BOARD.—Section 305 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204), is amended—

(A) in paragraph (5) of subsection (a), by striking ''and 309'' and inserting '', 309, and 310'';

(B) in paragraph (6) of subsection (a), by striking ''and 309'' and inserting '', 309, and 310''; and

(C) in subsection (c), by striking ''and 309'' and by inserting '', 309, and 310''.

(2) INTERNATIONAL BROADCASTING BUREAU.—Section 307 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6206), is amended—

(A) in subsection (a), by striking ''and 309'' and inserting '', 309, and 310''; and

(B) in subsection (c), by inserting '', and Middle East Broadcasting Network,'' after ''Asia''.

(3) IMMUNITY FOR LIABILITY.—Section 304(g) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203(g)), is amended—

(A) by striking ''and'' after ''Incorporated'', and by inserting a comma; and

(B) by adding '', and Middle East Broadcasting Network'' after ''Asia''.

(4) CREDITABLE SERVICE.—Section 8332(b)(11) of title 5, United States Code, is

amended by adding ''Middle East Broadcasting Network,'' after ''the Asia Foundation;''.

SEC. 811. SENSE OF CONGRESS RELATING TO INTERNATIONAL AND ECONOMIC SUPPORT FOR A SUCCESSOR REGIME IN IRAQ.

(a) FINDINGS.—Congress makes the following findings:

(1) A peaceful and prosperous Iraq will benefit the entire international community.

(2) Winning the peace in Iraq will require the support of the international community, including the assistance of the United Nations and the specialized agencies of the United Nations.

(3) While Iraq's long-term economic prospects are good, the short-term economic situation will be difficult.

(4) Iraq has an estimated $61,000,000,000 in foreign debt, approximately $200,000,000,000 in pending reparations claims through the United National Compensation Commission, and an unknown amount of potential liability for terrorism-related claims brought in United States courts.

(5) The revenue from the export of oil from Iraq is projected to be less than $15,000,000,000 each year for the years 2004, 2005, and 2006.

(b) SENSE OF CONGRESS ON A SUCCESSOR REGIME IN IRAQ.—It is the sense of Congress that—

(1) the President should be commended for seeking the support of the international community to build a stable and secure Iraq;

(2) the President's position that the oil resources of Iraq, and the revenues derived therefrom, are the sovereign possessions of the people of Iraq should be supported; and

(3) the President should pursue measures, in cooperation with other nations, to protect an interim or successor regime in Iraq, to the maximum extent possible, from the negative economic implications of indebtedness incurred by the regime of Saddam Hussein, and to assist in developing a resolution of all outstanding claims against Iraq.

SEC. 812. SENSE OF CONGRESS RELATING TO MAGEN DAVID ADOM SOCIETY.

It is the sense of Congress that, in light of the findings of fact set out in section 690(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1414) and the fact that the Federation of Red Cross and Red Crescent Societies has not granted full membership to the Magen David Adom Society, the United States should continue to press for full membership for the Magen David Adom Society in the International Red Cross Movement.

SEC. 813. SENSE OF CONGRESS ON CLIMATE CHANGE.

(a) FINDINGS.—Congress makes the following findings:

(1) Evidence continues to build that increases in atmospheric concentrations of man-made greenhouse gases are contributing to global climate change.

(2) The Intergovernmental Panel on Climate Change (IPCC) has concluded that ''there is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities'' and that the average temperature on Earth can be expected to rise between 2.5 and 10.4 degrees Fahrenheit in this century.

(3) The National Academy of Sciences confirmed the findings of the IPCC, stating that ''the IPCC's conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase of greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue'' and that ''there is general agreement that the observed warming is real and particularly strong within the past twenty years''. The National Academy of Sciences also noted that ''because there is considerable uncertainty in current understanding of how the climate system varies naturally and reacts to emissions of greenhouse gases and aerosols, current estimates of the magnitude of future warming should be regarded as tentative and subject to future adjustments upward or downward''.

(4) The IPCC has stated that in the last 40 years the global average sea level has risen, ocean heat content has increased, and snow cover and ice extent have decreased, which threatens to inundate low-lying island nations and coastal regions throughout the world.

(5) In October 2000, a United States Government report found that global climate change may harm the United States by altering crop yields, accelerating sea-level rise, and increasing the spread of tropical infectious diseases.

(6) In 1992, the United States ratified the United Nations Framework Convention on Climate Change (UNFCCC), the ultimate objective of which is the ''stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner''.

(7) The UNFCCC stated in part that the Parties to the Convention are to implement policies ''with the aim of returning . . . to their 1990 levels anthropogenic emissions of carbon dioxide and other greenhouse gases'' under the principle that ''policies and measures . . . should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change''.

(8) There is a shared international responsibility to address this problem, as industrial nations are the largest historic and current emitters of greenhouse gases, and developing nations' emissions will significantly increase in the future.

(9) The UNFCCC further stated that ''developed country Parties should take the lead in combating climate change and the adverse effects thereof'', as these nations are the largest historic and current emitters of greenhouse gases. The UNFCCC also stated that ''steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas''.

(10) Senate Resolution 98 of the One Hundred Fifth Congress, which expressed that developing nations must also be included in any future, binding climate change treaty and such a treaty must not result in serious harm to the United States economy, should not cause the United States to abandon its shared responsibility to help reduce the risks of climate change and its impacts. Future international efforts in this regard should focus on recognizing the equitable responsibilities for addressing climate change by all nations, including commitments by the largest developing country emitters in a future, binding climate change treaty.

(11) While the United States has elected not to become a party to the Kyoto Protocol at this time, it is the position of the United States that it will not interfere with the plans of any nation that chooses to ratify and implement the Kyoto Protocol to the UNFCCC.

(12) American businesses need to know how governments worldwide will address the risks of climate change.

(13) The United States benefits from investments in the research, development, and deployment of a range of clean energy and efficiency technologies that can reduce the risks of climate change and its impacts and that can make the United States economy more productive, bolster energy security, create jobs, and protect the environment.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should demonstrate international leadership and responsibility in reducing the health, environmental, and economic risks posed by climate change by—

(1) taking responsible action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors;

(2) creating flexible international and domestic mechanisms, including joint implementation, technology deployment, tradable credits for emissions reductions and carbon sequestration projects that will reduce, avoid, and sequester greenhouse gas emissions;

(3) participating in international negotiations, including putting forth a proposal to the Conference of the Parties, with the objective of securing United States participation in a future binding climate change Treaty in a manner that is consistent with the environmental objectives of the UNFCCC, that protects the economic interests of the United States, and that recognizes the shared international responsibility for addressing climate change, including developing country participation; and

(4) establishing a bipartisan Senate observer group designated by the chairman and ranking member of the Committee on Foreign Relations of the Senate, to monitor any international negotiations on climate change, to ensure that the advice and consent function of the Senate is exercised in a manner so as to facilitate timely consideration of any new treaty submitted to the Senate.

SEC. 814. EXTENSION OF AUTHORIZATION OF APPROPRIATION FOR THE UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM.

Section 207(a) of the International Religious Freedom Act of 1998 (22 U.S.C. 6435(a)) is amended by striking ''2003'' and inserting ''2004''.

TITLE IX—PEACE CORPS CHARTER FOR THE 21ST CENTURY

SEC. 901. SHORT TITLE.

This title may be cited as the ''Peace Corps Charter for the 21st Century Act''.

SEC. 902. FINDINGS.

Congress makes the following findings:

(1) The Peace Corps was established in 1961 to promote world peace and friendship through the service of United States volunteers abroad.

(2) The Peace Corps has sought to fulfill three goals, as follows:

(A) To help people in developing nations meet basic needs.

(B) To promote understanding of America's values and ideals abroad.

(C) To promote an understanding of other peoples by Americans.

(3) The three goals, which are codified in the Peace Corps Act, have guided the Peace Corps and its volunteers over the years, and worked in concert to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government.

(4) Since its establishment, approximately 165,000 Peace Corps volunteers have served in 135 countries.

(5) After more than 40 years of operation, the Peace Corps remains the world's premier

international service organization dedicated to promoting grassroots development.

(6) The Peace Corps remains committed to sending well trained and well supported Peace Corps volunteers overseas to promote peace, friendship, and international understanding.

(7) The Peace Corps is currently operating with an annual budget of $275,000,000 in 70 countries with 7,000 Peace Corps volunteers.

(8) The Peace Corps is an independent agency, and therefore no Peace Corps personnel or volunteers should be used to accomplish any goal other than the goals established by the Peace Corps Act.

(9) The Crisis Corps has been an effective tool in harnessing the skills and talents for returned Peace Corps volunteers and should be expanded to utilize to the maximum extent the talent pool of returned Peace Corps volunteers.

(10) There is deep misunderstanding and misinformation about American values and ideals in many parts of the world, particularly those with substantial Muslim populations, and a greater Peace Corps presence in such places could foster greater understanding and tolerance.

(11) Congress has declared that the Peace Corps should be expanded to sponsor a minimum of 10,000 Peace Corps volunteers.

(12) President George W. Bush has called for the doubling of the number of Peace Corps volunteers in service.

(13) Any expansion of the Peace Corps must not jeopardize the quality of the Peace Corps volunteer experience, and therefore can only be accomplished by an appropriate increase in field and headquarters support staff.

(14) In order to ensure that proposed expansion of the Peace Corps preserves the integrity of the program and the security of volunteers, the integrated Planning and Budget System supported by the Office of Planning and Policy Analysis should continue its focus on strategic planning.

(15) A streamlined, bipartisan National Peace Corps Advisory Council composed of distinguished returned Peace Corps volunteers and other individuals, with diverse backgrounds and expertise, can be a source of ideas and suggestions that may be useful to the Director of the Peace Corps in discharging the Director's duties and responsibilities.

SEC. 903. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the Peace Corps.

(2) PEACE CORPS VOLUNTEER.—The term ''Peace Corps volunteer'' means a volunteer or a volunteer leader under the Peace Corps Act.

(3) RETURNED PEACE CORPS VOLUNTEER.—The term ''returned Peace Corps volunteer'' means a person who has been certified by the Director as having served satisfactorily as a Peace Corps volunteer.

SEC. 904. STRENGTHENED INDEPENDENCE OF THE PEACE CORPS.

(a) RECRUITMENT OF VOLUNTEERS.—Section 2A of the Peace Corps Act (22 U.S.C. 2501–1) is amended by adding at the end the following new sentence: ''As the Peace Corps is an independent agency, all recruiting of volunteers shall be undertaken primarily by the Peace Corps.''.

(b) DETAILS AND ASSIGNMENTS.—Section 5(g) of the Peace Corps Act (22 U.S.C. 2504(g)) is amended by inserting after ''*Provided,* That'' the following: ''such detail or assignment does not contradict the standing of Peace Corps volunteers as being independent: *Provided further,* That''.

SEC. 905. REPORTS AND CONSULTATIONS.

(a) ANNUAL REPORTS; CONSULTATIONS ON NEW INITIATIVES.—The Peace Corps Act is amended by striking the heading for section 11 (22 U.S.C. 2510) and all that follows through the end of such section and inserting the following:

''SEC. 11. ANNUAL REPORTS; CONSULTATIONS ON NEW INITIATIVES.

''(a) ANNUAL REPORTS.—The Director shall transmit to Congress, at least once in each fiscal year, a report on operations under this Act. Each report shall contain—

''(1) a description of efforts undertaken to improve coordination of activities of the Peace Corps with activities of international voluntary service organizations, such as the United Nations volunteer program, and of host country voluntary service organizations, including—

''(A) a description of the purpose and scope of any development project which the Peace Corps undertook during the preceding fiscal year as a joint venture with any such international or host country voluntary service organizations; and

''(B) recommendations for improving coordination of development projects between the Peace Corps and any such international or host country voluntary service organizations;

''(2) a description of—

''(A) any major new initiatives that the Peace Corps has under review for the upcoming fiscal year, and any major initiatives that were undertaken in the previous fiscal year that were not included in prior reports to Congress;

''(B) the rationale for undertaking such new initiatives;

''(C) an estimate of the cost of such initiatives; and

''(D) any impact such initiatives may have on the safety of volunteers; and

''(3) a description of standard security procedures for any country in which the Peace Corps operates programs or is considering doing so, as well as any special security procedures contemplated because of changed circumstances in specific countries, and assessing whether security conditions would be enhanced—

''(A) by colocating volunteers with international or local nongovernmental organizations; or

''(B) with the placement of multiple volunteers in one location.

''(b) CONSULTATIONS ON NEW INITIATIVES.—The Director of the Peace Corps should consult with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives with respect to any major new initiatives not previously discussed in the latest annual report submitted to Congress under subsection (a) or in budget presentations. Whenever possible, such consultations should take place prior to the initiation of such initiatives, but in any event as soon as is practicable thereafter.''.

(b) ONE-TIME REPORT ON STUDENT LOAN FORGIVENESS PROGRAMS.—Not later than 30 days after the date of the enactment of this Act, the Director shall submit to the appropriate congressional committees a report containing—

(1) a description of the student loan forgiveness programs currently available to Peace Corps volunteers upon completion of their service;

(2) a comparison of such programs with other Government-sponsored student loan forgiveness programs; and

(3) recommendations for any additional student loan forgiveness programs that could attract more applicants from more low- and middle-income applicants facing high student loan obligations.

SEC. 906. INCREASING THE NUMBER OF VOLUNTEERS.

(a) REQUIREMENT.—The Director shall develop a plan to increase the number of Peace Corps volunteers to a number that is not less than twice the number of Peace Corps volunteers who were enrolled in the Peace Corps on September 30, 2002.

(b) REPORT ON INCREASING THE NUMBER OF VOLUNTEERS.—

(1) INITIAL REPORT.—Not later than 30 days after the date of the enactment of this Act, the Director shall submit to the appropriate congressional committees a report describing in detail the Director's plan for increasing the number of Peace Corps volunteers as described in subsection (a), including a five-year budget plan for funding such increase in the number of volunteers.

(2) SUBSEQUENT REPORTS.—Not later than January 31 of each year in which the number of Peace Corps volunteers is less than twice the number of Peace Corps volunteers who were enrolled in the Peace Corps on September 30, 2002, the Director shall submit to the appropriate congressional committees an update on the report described in paragraph (1).

SEC. 907. SPECIAL VOLUNTEER RECRUITMENT AND PLACEMENT FOR COUNTRIES WHOSE GOVERNMENTS ARE SEEKING TO FOSTER GREATER UNDERSTANDING BETWEEN THEIR CITIZENS AND THE UNITED STATES.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director shall submit to the appropriate congressional committees a report describing the initiatives that the Peace Corps intends to pursue with eligible countries where the presence of Peace Corps volunteers would facilitate a greater understanding that there exists a universe of commonly shared human values and aspirations. Such report shall include—

(1) a description of the recruitment strategies to be employed by the Peace Corps to recruit and train volunteers with the appropriate language skills and interest in serving in such countries; and

(2) a list of the countries that the Director has determined should be priorities for special recruitment and placement of Peace Corps volunteers.

(b) USE OF RETURNED PEACE CORPS VOLUNTEERS.—Notwithstanding any other provision of law, the Director is authorized and strongly urged to utilize the services of returned Peace Corps volunteers having language and cultural expertise, including those returned Peace Corps volunteers who may have served previously in countries with substantial Muslim populations, in order to open or reopen Peace Corps programs in such countries.

SEC. 908. GLOBAL INFECTIOUS DISEASES INITIATIVE.

The Director, in cooperation with international public health experts such as experts of the Centers for Disease Control and Prevention, the National Institutes of Health, the World Health Organization, the Pan American Health Organization, and local public health officials, shall develop a program of training for all Peace Corps volunteers in the areas of education, prevention, and treatment of infectious diseases in order to ensure that all Peace Corps volunteers make a contribution to the global campaign against such diseases.

SEC. 909. PEACE CORPS NATIONAL ADVISORY COUNCIL.

Section 12 of the Peace Corps Act (22 U.S.C. 2511) is amended—

(1) in subsection (b)(2) by striking subparagraph (D) and inserting the following:

''(D) make recommendations for utilizing the expertise of returned Peace Corps volunteers in fulfilling the goals of the Peace Corps.'';

(2) in subsection (c)(2)—

(A) in subparagraph (A)—

(i) in the first sentence, by striking ''fifteen'' and inserting ''seven''; and

(ii) by striking the second sentence and inserting the following: ''Four of the members shall be former Peace Corps volunteers, at least one of whom shall have been a former staff member abroad or in the Washington headquarters, and not more than four shall be members of the same political party.'';

(B) by striking subparagraph (D) and inserting the following:

''(D) The members of the Council shall be appointed for 2-year terms.'';

(C) by striking subparagraphs (B) and (H); and

(D) by redesignating subparagraphs (C), (D), (E), (F), (G), and (I) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively;

(3) by striking subsection (g) and inserting the following:

''(g) CHAIR.—The President shall designate one of the voting members of the Council as Chair, who shall serve in that capacity for a period not to exceed two years.'';

(4) by striking subsection (h) and inserting the following:

''(h) MEETINGS.—The Council shall hold a regular meeting during each calendar quarter at a date and time to be determined by the Chair of the Council.''; and

(5) by striking subsection (i) and inserting the following:

''(i) REPORT.—Not later than July 30 of each year, the Council shall submit a report to the President and the Director of the Peace Corps describing how the Council has carried out its functions under subsection (b)(2).''.

SEC. 910. READJUSTMENT ALLOWANCES.

(a) INCREASED RATES.—The Peace Corps Act is amended—

(1) in section 5(c) (22 U.S.C. 2504(c)), by striking ''$125'' and inserting ''$275''; and

(2) in section 6(1) (22 U.S.C. 2505(1)), by striking ''$125'' and inserting ''$275''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

SEC. 911. PROGRAMS AND PROJECTS OF RETURNED PEACE CORPS VOLUNTEERS TO PROMOTE THE GOALS OF THE PEACE CORPS.

(a) PURPOSE.—The purpose of this section is to provide support for returned Peace Corps volunteers to develop and carry out programs and projects to promote the third purpose of the Peace Corps Act, as set forth in section 2(a) of that Act (22 U.S.C. 2501(a)), relating to promoting an understanding of other peoples on the part of the American people.

(b) GRANTS TO CERTAIN NONPROFIT CORPORATIONS.—

(1) GRANT AUTHORITY.—The Chief Executive Officer of the Corporation for National and Community Service (hereafter in the section referred to as the ''Corporation'') shall award grants on a competitive basis to private nonprofit corporations for the purpose of enabling returned Peace Corps volunteers to use their knowledge and expertise to develop programs and projects to carry out the purpose described in subsection (a).

(2) PROGRAMS AND PROJECTS.—The programs and projects that may receive grant funds under this section include—

(A) educational programs designed to enrich the knowledge and interest of elementary school and secondary school students in the geography and cultures of other countries where the volunteers have served;

(B) projects that involve partnerships with local libraries to enhance community knowledge about other peoples and countries; and

(C) audio-visual projects that utilize materials collected by the volunteers during their service that would be of educational value to communities.

(3) ELIGIBILITY.—To be eligible for a grant under this section, a nonprofit corporation shall have a board of directors composed of returned Peace Corps volunteers with a background in community service, education, or health. The nonprofit corporation shall meet all management requirements that the Corporation determines appropriate and prescribes as conditions for eligibility for the grant.

(c) GRANT REQUIREMENTS.—A grant under this section shall be made pursuant to a grant agreement between the Corporation and the nonprofit corporation that—

(1) requires grant funds be used only to support programs and projects to carry out the purpose described in subsection (a) through the funding of proposals submitted by returned Peace Corps volunteers (either individually or cooperatively with other returned volunteers);

(2) requires the nonprofit corporation to give preferential consideration to proposals submitted by returned Peace Corps volunteers that request less than $100,000 to carry out a program or project;

(3) requires that not more than 20 percent of the grant funds made available to the nonprofit corporation be used for the salaries, overhead, or other administrative expenses of the nonprofit corporation;

(4) prohibits the nonprofit corporation from receiving grant funds for more than 2 years unless, beginning in the third year, the nonprofit corporation makes available, to carry out the programs or projects that receive grant funds during that year, non-Federal contributions—

(A) in an amount not less than $2 for every $3 of Federal funds provided through the grant; and

(B) provided directly or through donations from private entities, in cash or in kind, fairly evaluated, including plant, equipment, or services; and

(5) requires the nonprofit corporation to manage, monitor, and report to the Corporation on the progress of each program or project for which the nonprofit corporation provides funding from a grant under this section.

(d) STATUS OF THE FUND.—Nothing in this section shall be construed to make any nonprofit corporation supported under this section an agency or establishment of the Federal Government or to make any member of the board of directors or any officer or employee of such nonprofit corporation an officer or employee of the United States.

(e) FACTORS IN AWARDING GRANTS.—In determining the number of nonprofit corporations to receive grants under this section for any fiscal year, the Corporation shall—

(1) consider the need to minimize overhead costs and maximize resources available to fund programs and projects; and

(2) seek to ensure that programs and projects receiving grant funds are carried out across a broad geographical distribution.

(f) CONGRESSIONAL OVERSIGHT.—Grant recipients under this section shall be subject to the appropriate oversight procedures of Congress.

(g) FUNDING.—

(1) IN GENERAL.—In addition to any other funds made available to the Corporation under any other provision of law, there is authorized to be appropriated to the Corporation to carry out this section, $10,000,000.

(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 912. AUTHORIZATION OF APPROPRIATIONS.

Section 3(b)(1) of the Peace Corps Act (22 U.S.C. 2502(b)(1)) is amended—

(1) by striking ''2002, and'' and inserting ''2002,''; and

(2) by inserting before the period at the end the following: '', $359,000,000 for fiscal year 2004, $401,000,000 for fiscal year 2005, $443,000,000 for fiscal year 2006, and $485,000,000 for fiscal year 2007''.

DIVISION B—FOREIGN ASSISTANCE AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Foreign Assistance Authorization Act, Fiscal Year 2004''.

TITLE XXI—AUTHORIZATION OF APPROPRIATIONS

Subtitle A—Development Assistance and Related Programs Authorizations

SEC. 2101. DEVELOPMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the President for ''Development Assistance'', $1,360,000,000 for fiscal year 2004 to carry out sections 103, 105, 106, and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, 2151d, and 2293).

(b) AVAILABILITY.—Amounts appropriated under this section for the purposes specified in subsection (a)—

(1) are authorized to remain available until expended; and

(2) are in addition to amounts otherwise available for such purposes.

(c) REPEAL OF OBSOLETE AUTHORIZATIONS.—

(1) AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION.—Section 103(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a(a)) is amended—

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

(B) by striking paragraphs (2) and (3); and

(C) by redesignating subparagraphs (A), (B), and (C), as paragraphs (1), (2), and (3), respectively.

(2) EDUCATION AND HUMAN RESOURCES DEVELOPMENT.—Section 105(a) of such Act (22 U.S.C. 2151c(a)) is amended by striking the second sentence.

(3) ENERGY, PRIVATE VOLUNTARY ORGANIZATIONS, AND SELECTED DEVELOPMENT ACTIVITIES.—Section 106 of such Act (22 U.S.C. 2151d) is amended by striking subsections (e) and (f).

(d) TECHNICAL AMENDMENT OF DEVELOPMENT FUND FOR AFRICA.—Section 497 of the Foreign Assistance Act of 1961 (22 U.S.C. 2294) is amended by striking ''AUTHORIZATIONS OF APPROPRIATIONS FOR THE DEVELOPMENT FUND FOR AFRICA.—'' and inserting ''AVAILABILITY OF FUNDS.—''.

SEC. 2102. CHILD SURVIVAL AND HEALTH PROGRAMS FUND.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for ''Child Survival and Health Programs Fund'', $1,495,000,000 for fiscal year 2004 to carry out sections 104 and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b and 2293). Amounts authorized to be appropriated under this section are in addition to amounts available under other provisions of law to combat the human immunodeficiency virus (HIV) or the acquired immune deficiency syndrome (AIDS).

(b) FAMILY PLANNING PROGRAMS.—Of the amount authorized to be appropriated under subsection (a), $346,000,000 may be used for assistance under sections 104(b) and 496(i)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(b) and 2293(i)(3)).

(c) AVAILABILITY.—Amounts appropriated under this section for the purposes specified in subsection (a)—

(1) are authorized to remain available until expended; and

(2) are in addition to amounts otherwise available for such purposes.

(d) REPEAL OF OBSOLETE AUTHORIZATIONS AND TECHNICAL AMENDMENTS.—Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) is amended—

(1) in paragraph (2)—

(A) by striking subparagraphs (B) and (C); and

(B) by striking ''(2)(A)'' and inserting ''(2)''; and

(2) in paragraph (3), by striking the last sentence.

SEC. 2103. DEVELOPMENT CREDIT AUTHORITY.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by inserting after section 108 (22 U.S.C. 2151f) the following:

''SEC. 108A. DEVELOPMENT CREDIT AUTHORITY.

''(a) FINDINGS.—Congress makes the following findings:

''(1) Developing countries often have large reserves of privately held capital that are not being adequately mobilized and invested due to weak financial institutions and other market imperfections in such countries.

''(2) Partial loan guarantees, particularly when used as an integral part of a development strategy, are useful to leverage local private capital for development while reforming and strengthening developing country financial markets.

''(3) Requiring risk-sharing guarantees and limiting guarantee assistance to private lenders encourages such lenders to provide appropriate oversight and management of development projects funded with loans made by such lenders and, thereby, maximize the benefit which such projects will achieve.

''(b) POLICY.—It is the policy of the United States to make partial loan guarantees available to private lenders to fund development projects in developing countries that encourage such lenders to provide appropriate oversight and management of such development projects.

''(c) AUTHORITY.—To carry out the policy set forth in subsection (b), the President is authorized to provide assistance in the form of loans and partial loan guarantees to private lenders in developing countries to achieve the economic development purposes of the provisions of this part.

''(d) PRIORITY FOR ASSISTANCE.—The President, in providing assistance under this section, shall give priority to providing partial loan guarantees made pursuant to the authority in subsection (c) that are used in transactions in which the financial risk of loss to the United States Government under such guarantee does not exceed the financial risk of loss of the private lender that receives such guarantee.

''(e) TERMS AND CONDITIONS.—Assistance provided under this section shall be provided on such terms and conditions as the President determines appropriate.

''(f) OBLIGATIONS OF THE UNITED STATES.—A partial loan guarantee made under subsection (c) shall constitute an obligation, in accordance with the terms of such guarantee, of the United States of America and the full faith and credit of the United States of America is pledged for the full payment and performance of such obligation.

''(g) PROCUREMENT PROVISIONS.—Assistance may be provided under this section notwithstanding section 604(a).

''(h) DEVELOPMENT CREDIT AUTHORITY PROGRAM ACCOUNT.—There is established on the books of the Treasury an account known as the Development Credit Authority Program Account. There shall be deposited into the account all amounts made available for providing assistance under this section, other than amounts made available for administrative expenses to carry out this section. Amounts in the Account shall be available to provide assistance under this section.

''(i) AVAILABILITY OF FUNDS.—

''(1) IN GENERAL.—Of the amounts authorized to be available for the purposes of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151) and the Support for Eastern European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.), not more than $21,000,000 for fiscal year 2004 may be made available to carry out this section.

''(2) TRANSFER OF FUNDS.—Amounts made available under paragraph (1) may be transferred to the Development Credit Authority Program Account established by subsection (h) of such section.

''(3) SUBSIDY COST.—Amounts made available under paragraphs (1) and (2) shall be available for subsidy cost as defined in section 502(5) of the Federal Reform Credit Act of 1990 (2 U.S.C. 661a(5)) of activities under this section.

''(j) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated for administrative expenses to carry out this section $8,000,000 for fiscal year 2004.

''(2) TRANSFER OF FUNDS.—The amounts appropriated for administrative expenses under paragraph (1) may be transferred to and merged with amounts made available under section 667(a).

''(k) AVAILABILITY.—Amounts appropriated or made available under this section are authorized to remain available until expended.''.

SEC. 2104. PROGRAM TO PROVIDE TECHNICAL ASSISTANCE TO FOREIGN GOVERNMENTS AND FOREIGN CENTRAL BANKS OF DEVELOPING OR TRANSITIONAL COUNTRIES.

Section 129(j)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151aa(j)(1)) is amended by striking ''$5,000,000 for fiscal year 1999'' and inserting ''$14,000,000 for fiscal year 2004''.

SEC. 2105. INTERNATIONAL ORGANIZATIONS AND PROGRAMS.

Section 302 of the Foreign Assistance Act of 1961 (22 U.S.C. 2222) is amended to read as follows:

''SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to the President $314,500,000 for fiscal year 2004 for grants to carry out the purposes of this chapter. Amounts appropriated pursuant to the authorization of appropriations in this section are in addition to amounts otherwise available for such purposes.''.

SEC. 2106. CONTINUED AVAILABILITY OF CERTAIN FUNDS WITHHELD FROM INTERNATIONAL ORGANIZATIONS.

Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) is amended by adding at the end the following new subsection:

''(e) Funds available in any fiscal year to carry out the provisions of this chapter that are returned or not made available for organizations and programs because of the application of this section shall remain available for obligation until September 30 of the fiscal year after the fiscal year for which such funds are appropriated.''.

SEC. 2107. INTERNATIONAL DISASTER ASSISTANCE.

Section 492(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2292a(a)) is amended by striking ''$25,000,000 for fiscal year 1986 and $25,000,000 for fiscal year 1987'' and inserting ''$235,500,000 for fiscal year 2004''.

SEC. 2108. TRANSITION INITIATIVES.

Section 494 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292c) is amended to read as follows:

''SEC. 494. TRANSITION AND DEVELOPMENT ASSISTANCE.

''(a) TRANSITION AND DEVELOPMENT ASSISTANCE.—The President is authorized to furnish assistance to support the transition to democracy and to long-term development in accordance with the general authority contained in section 491, including assistance to—

''(1) develop, strengthen, or preserve democratic institutions and processes;

''(2) revitalize basic infrastructure; and

''(3) foster the peaceful resolution of conflict.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the President $55,000,000 for fiscal year 2004 to carry out this section.

''(c) AVAILABILITY.—Amounts appropriated under this section for the purpose specified in subsection (b)—

''(1) are authorized to remain available until expended; and

''(2) are in addition to amounts otherwise available for such purpose.''.

SEC. 2109. FAMINE ASSISTANCE.

(a) AUTHORITY.—Chapter 9 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2292 et seq.), as amended by section 520, is amended by adding at the end the following new section:

''SEC. 495. FAMINE ASSISTANCE.

''(a) AUTHORIZATION.—The President is authorized to provide assistance for famine prevention and relief, including for famine prevention and for mitigation of the effects of famine.

''(b) AUTHORITIES.—Assistance authorized by subsection (a) shall be provided in accordance with the general authority contained in section 491.

''(c) NOTIFICATION.—The President shall transmit advance notification of any assistance to be provided under subsection (a) to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representative in accordance with section 634A (22 U.S.C. 2394–1).

''(d) FAMINE FUND.—There is established on the books of the Treasury an account to be known as the Famine Fund. There shall be deposited into the account all amounts made available for providing assistance under subsection (a). Amounts in the Fund shall be available to provide assistance under such subsection.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such sums as may be necessary for fiscal year 2004 to carry out this section.

''(f) AVAILABILITY.—Amounts appropriated under this section—

''(1) are authorized to remain available until expended; and

''(2) are in addition to amounts otherwise available for such purpose.''.

SEC. 2110. ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the President for ''Assistance for the Independent States of the Former Soviet Union'', $646,000,000 for fiscal year 2004 to carry out chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq. and 2296 et seq.).

(b) AVAILABILITY.—Amounts appropriated under this section for the purposes specified in subsection (a)—

(1) are authorized to remain available until expended; and

(2) are in addition to amounts otherwise available for such purposes.

SEC. 2111. ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the President for ''Assistance for Eastern Europe and the Baltic States'' $475,000,000 for fiscal year 2004 to carry out the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.), and the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).

(b) AVAILABILITY.—Amounts appropriated under this section for the purposes specified in subsection (a)—

(1) are authorized to remain available until expended;

(2) are in addition to amounts otherwise available for such purposes;

(3) may be made available notwithstanding any other provision of law; and

(4) shall be considered to be economic assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) for purposes of making applicable the administrative authorities contained in that Act for the use of economic assistance.

SEC. 2112. OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 667 of the Foreign Assistance Act of 1961 (22 U.S.C. 2427) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

''(1) $750,400,000 for the fiscal year 2004 for necessary operating expenses of the United States Agency for International Development, of which $146,300,000 is authorized to be appropriated for overseas construction and related costs and for enhancement of information technology and related investments; and''; and

(B) in paragraph (2) of such subsection, by striking ''agency'' and inserting ''Agency'';

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

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

''(b) There are authorized to be appropriated to the President, in addition to funds available under subsection (a) or any other provision of law for such purposes—

''(1) $35,000,000 for fiscal year 2004 for necessary operating expenses of the Office of Inspector General of the United States Agency for International Development; and

''(2) such amounts as may be necessary for increases in pay, retirement, and other employee benefits authorized by law for the employees of such Office, and for other nondiscretionary costs of such Office.''.

(b) CONFORMING AMENDMENT.—The heading of section 667 of the Foreign Assistance Act of 1961 (22 U.S.C. 2427) is amended by striking ''EXPENSES.—'' and inserting ''EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—''.

Subtitle B—Counternarcotics, Security Assistance, and Related Programs Authorizations

SEC. 2121. COMPLEX FOREIGN CONTINGENCIES.

Chapter 5 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2261) is amended by adding at the end the following new section:

''SEC. 452. COMPLEX FOREIGN CRISES CONTINGENCY FUND.

''(a) ESTABLISHMENT OF FUND.—There is hereby established on the books of the Treasury a fund to be known as the Complex Foreign Crises Contingency Fund (in this section referred to as the 'Fund') for the purpose described in subsection (b).

''(b) PURPOSE.—The purpose of the Fund is to provide the President with increased flexibility to respond to complex foreign crises, including the ability—

''(1) to provide support for peace and humanitarian intervention operations; and

''(2) to prevent or respond to foreign territorial disputes, armed ethnic or civil conflicts that pose threats to regional or international peace, and acts of ethnic cleansing, mass killings, and genocide.

''(c) ELEMENTS.—The Fund shall consist of amounts authorized to be appropriated to the Fund under subsection (g).

''(d) AUTHORITY TO FURNISH ASSISTANCE.—(1) Notwithstanding any other provision of law, whenever the President determines it to be important to the national interests of the United States, the President is authorized to furnish assistance using amounts in the Fund for the purpose of responding to a complex foreign crisis.

''(2) The authority to furnish assistance under paragraph (1) for the purpose specified in that paragraph is in addition to any other authority under law to furnish assistance for that purpose.

''(e) LIMITATION ON USE OF FUNDS.—No amounts in the Fund shall be available to respond to natural disasters.

''(f) NOTICE OF EXERCISE OF AUTHORITY.—The President shall notify the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives at least 5 days before each exercise of the authority in this section in accordance with procedures applicable to reprogramming notifications pursuant to section 634A.

''(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated to the President for fiscal year 2004 such sums as may be necessary to carry out this section.

''(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall be deposited in the Fund.

''(3) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.''.

SEC. 2122. INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2004.—Paragraph (1) of section 482(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(a)) is amended by striking ''$147,783,000'' and all that follows and inserting ''$985,000,000 for fiscal year 2004, of which $700,000,000 is authorized to be appropriated for the Andean Counterdrug Initiative.''.

(b) AVAILABILITY OF FUNDS FOR COLOMBIA.—That section is further amended by adding at the end the following new paragraphs:

''(3) Notwithstanding any other provision of law, amounts authorized to be appropriated to carry out the purposes of section 481 for fiscal year 2004, and amounts appropriated for fiscal years before fiscal year 2004 for purposes of such section that remain available for obligation, may be used to furnish assistance to the Government of Colombia—

''(A) to support a unified campaign against narcotics trafficking and terrorist activities; and

''(B) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

''(4) Assistance furnished to the Government of Colombia under this section—

''(A) shall be subject to the limitations on the assignment of United States personnel in Colombia under subsections (b) through (d) of section 3204 of the Emergency Supplemental Act, 2000 (division B of Public Law 106–246; 114 Stat. 576);

''(B) shall be subject to the condition that no United States Armed Forces personnel and no employees of United States contractors participate in any combat operation in connection with such assistance; and

''(C) shall be subject to the condition that the Government of Colombia is fulfilling its commitment to the United States with respect to its human rights practices, including the specific conditions set forth in subparagraphs (A) through (E) of section 564(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 205).''.

SEC. 2123. ECONOMIC SUPPORT FUND.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 532(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346a(a)) is amended to read as follows:

''(a) There is authorized to be appropriated to the President to carry out the purposes of this chapter $2,535,000,000 for fiscal year 2004.''.

(b) AUTHORIZATION OF ASSISTANCE FOR ISRAEL.—Section 513(b)(1) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 856), as amended by section 1221(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1430), is further amended by striking ''fiscal years 2002 and 2003'' and inserting ''fiscal years 2003 and 2004''.

(c) AUTHORIZATION OF ASSISTANCE FOR EGYPT.—Section 514(b)(1) of the Security Assistance Act of 2000 (Public Law 106–280), as amended by section 1221(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1430), is further amended by striking ''fiscal years 2002 and 2003'' and inserting ''fiscal years 2003 and 2004''.

SEC. 2124. INTERNATIONAL MILITARY EDUCATION AND TRAINING.

Section 542 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347a) is amended by striking ''There are authorized'' and all that follows through ''fiscal year 1987'' and inserting ''There is authorized to be appropriated to the President to carry out the purposes of this chapter $91,700,000 for the fiscal year 2004''.

SEC. 2125. PEACEKEEPING OPERATIONS.

Section 552(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2348a(a)) is amended by striking ''There are authorized'' and all that follows through ''fiscal year 1987'' and inserting ''There is authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to amounts otherwise available for such purposes, $101,900,000 for the fiscal year 2004''.

SEC. 2126. NONPROLIFERATION, ANTI-TERRORISM, DEMINING, AND RELATED ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the President for fiscal year 2004, $485,200,000 for Nonproliferation, Anti-Terrorism, Demining, and Related Programs for the purpose of carrying out nonproliferation, anti-terrorism, demining, and related programs and activities under—

(1) chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.);

(2) chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.);

(3) section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348), as amended by section 2212 of this Act, to the extent such assistance is used for activities identified in the last sentence of that section, including not to exceed $675,000 for administrative expenses related to such activities, which amount shall be in addition to funds otherwise made available for such purposes;

(4) section 504 of the FREEDOM Support Act (22 U.S.C. 5854) and programs under the Nonproliferation and Disarmament Fund to

promote bilateral and multilateral activities relating to nonproliferation and disarmament, notwithstanding any other provision of law, including, when in the national security interests of the United States, with respect to international organizations and countries other than the independent states of the former Soviet Union;

(5) section 23 of the Arms Export Control Act (22 U.S.C. 2763), for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law;

(6) section 301 of the Foreign Assistance Act of 1961 (22 U.S.C. 2221);

(7) the Radiological Terrorism Threat Reduction Act of 2003 under title XII of this Act; and

(8) the Global Pathogen Surveillance Act of 2003 under title XIII of this Act.

(b) AVAILABILITY.—Amounts appropriated under this section for the purpose specified in subsection (a)—

(1) are authorized to remain available until expended; and

(2) are in addition to amounts otherwise available for that purpose.

SEC. 2127. FOREIGN MILITARY FINANCING PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763), $4,414,000,000 for fiscal year 2004.

(b) ASSISTANCE FOR ISRAEL.—Section 513 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 856), as amended by section 1221(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1430), is further amended—

(1) in subsection (c)(1), by striking ''fiscal years 2002 and 2003'' and inserting ''fiscal years 2003 and 2004'';

(2) in subsection (c)(3), by striking ''Funds authorized'' and all that follows through ''later.'' and inserting ''Funds authorized to be available for Israel under subsection (b)(1) and paragraph (1) for fiscal year 2004 shall be disbursed not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2004, or October 31, 2004, whichever is later.''; and

(3) in subsection (c)(4)—

(A) by striking ''fiscal years 2002 and 2003'' and inserting ''fiscal years 2003 and 2004''; and

(B) by striking ''$535,000,000 for fiscal year 2002 and not less than $550,000,000 for fiscal year 2003'' and inserting ''$550,000,000 for fiscal year 2003 and not less than $565,000,000 for fiscal year 2004''.

(c) ASSISTANCE FOR EGYPT.—Section 514 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 857), as amended by section 1221(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (116 Stat. 1430), is further amended—

(1) in subsection (c) by striking ''fiscal years 2002 and 2003'' and inserting ''fiscal years 2003 and 2004''; and

(2) in subsection (e), by striking ''Funds estimated'' and all that follows through ''of the respective fiscal year, whichever is later'' and inserting the following: ''Funds estimated to be outlayed for Egypt under subsection (c) during fiscal year 2004 shall be disbursed to an interest-bearing account for Egypt in the Federal Reserve Bank of New York not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2004, or by October 31, 2003, whichever is later''.

Subtitle C—Independent Agencies Authorizations

SEC. 2131. INTER-AMERICAN FOUNDATION.

Section 401(s)(2) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f(s)(2)) is amended by striking ''There are authorized to be appropriated $28,000,000 for fiscal year 1992 and $31,000,000 for fiscal year 1993'' and inserting ''There is authorized to be appropriated $15,185,000 for fiscal year 2004''.

SEC. 2132. AFRICAN DEVELOPMENT FOUNDATION.

The first sentence of section 510 of the International Security and Development Cooperation Act of 1980 (22 U.S.C. 290h–8) is amended by striking ''$3,872,000 for fiscal year 1986 and $3,872,000 for fiscal year 1987'' and inserting ''$17,689,000 for fiscal year 2004''.

Subtitle D—Multilateral Development Bank Authorizations

SEC. 2141. CONTRIBUTION TO THE SEVENTH REPLENISHMENT OF THE ASIAN DEVELOPMENT FUND.

The Asian Development Bank Act (22 U.S.C. 285 et seq.) is amended by adding at the end the following new section:

''SEC. 31. SEVENTH REPLENISHMENT.

''(a) AUTHORIZATION TO CONTRIBUTE.—The United States Governor of the Bank is authorized to contribute, on behalf of the United States, $412,000,000 to the seventh replenishment of the Asian Development Fund, a special fund of the Bank, except that any commitment to make the contribution authorized by this subsection shall be made subject to obtaining the necessary appropriations.

''(b) AUTHORIZATION OF APPROPRIATIONS.—In order to pay for the United States contribution authorized by subsection (a), there is authorized to be appropriated without fiscal year limitation, $412,000,000 for payment by the Secretary of the Treasury.''.

SEC. 2142. CONTRIBUTION TO THE THIRTEENTH REPLENISHMENT OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION.

The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end the following new section:

''SEC. 22. THIRTEENTH REPLENISHMENT.

''(a) AUTHORIZATION TO CONTRIBUTE.—The United States Governor is authorized to contribute, on behalf of the United States, $2,850,000,000 to the thirteenth replenishment of the Association, except that any commitment to make the contribution authorized by this subsection shall be made subject to obtaining the necessary appropriations.

''(b) AUTHORIZATION OF APPROPRIATIONS.—In order to pay for the United States contribution authorized by subsection (a), there is authorized to be appropriated without fiscal year limitation, $2,850,000,000 for payment by the Secretary of the Treasury.

''(c) TRANSPARENCY.—

''(1) POLICY.—It is the policy of the United States that each multilateral development institution that has a United States Executive Director should—

''(A) not later than 60 days after the date on which the minutes of a meeting of the Board of Directors are approved, post the minutes on the website of the multilateral development institution, with any material deemed too sensitive for public dissemination redacted;

''(B) for a period of at least 10 years beginning on the date of a meeting of a Board of Directors, keep and preserve a written transcript or electronic recording of such meeting;

''(C) not later than the later of 15 days prior to the date on which a Board of Directors will consider for endorsement or approval any public sector loan document, country assistance strategy, sector strategy, or sector policy prepared by a multilateral development institution or the date such documents are distributed to the Board, make such documents available to the public, with any material deemed too sensitive for public dissemination redacted;

''(D) make available on the website of the multilateral development institution an annual report that contains statistical summaries and case studies of the fraud and corruption cases pursued by the investigations unit of the multilateral development institution; and

''(E) require that any health, education, or poverty-focused loan, credit, grant, document, policy or strategy prepared by the multilateral development institution include specific outcome and output indicators to measure results, and that the results be published periodically during the performance of the project or program and at its completion.

''(2) IMPLEMENTATION.—The Secretary of the Treasury should instruct each United States Executive Director at a multilateral development institution—

''(A) to inform the multilateral development institution of the policy set out in subparagraphs (A) through (E) of paragraph (1); and

''(B) to work to implement the policy at the multilateral development institution not later than the scheduled conclusion of the thirteenth replenishment of the International Development Association on June 30, 2005.

''(3) BRIEFING.—The Secretary of the Treasury should brief, or send a representative of the Department of the Treasury to brief, the appropriate congressional committees, at the request of such committees, on the actions taken by each United States Executive Director at a multilateral development institution or by personnel of such institutions to implement the policy set out in subparagraphs (A) through (E) of paragraph (1).

''(4) PUBLIC DISSEMINATION BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury should make available on the website of the Department of the Treasury—

''(A) not later than 60 days after the date of a meeting of a Board of Directors, any written statement presented by a United States Executive Director at such meeting related to a project for which—

''(i) a claim has been made to the multilateral development institution's inspection mechanism; or

''(ii) Board of Directors decisions on inspection mechanism cases are being taken; and

''(B) a record of all votes or abstentions made by a United States Executive Director on matters before a Board of Directors, on a monthly basis.

''(d) DEFINITIONS.—In this section:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on Financial Services of the House of Representatives.

''(2) BOARD OF DIRECTORS.—The term 'Board of Directors' means the Board of Directors of a multilateral development institution.

''(3) MULTILATERAL DEVELOPMENT INSTITUTION.—The term 'multilateral development institution' has the meaning given such term in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)).''.

SEC. 2143. CONTRIBUTION TO THE NINTH REPLENISHMENT OF THE AFRICAN DEVELOPMENT FUND.

The African Development Fund Act (22 U.S.C. 290g et seq.) is amended by adding at the end the following new section:

''SEC. 217. NINTH REPLENISHMENT.

''(a) AUTHORIZATION TO CONTRIBUTE.—The United States Governor of the Fund is authorized to contribute, on behalf of the United States, $354,000,000 to the ninth replenishment of the Fund, except that any commitment to make the contribution authorized by this subsection shall be made subject to obtaining the necessary appropriations.

''(b) AUTHORIZATION OF APPROPRIATIONS.—In order to pay for the United States contribution authorized by subsection (a), there is authorized to be appropriated, without fiscal year limitation, $354,000,000 for payment by the Secretary of the Treasury.''.

Subtitle E—Authorization for Iraq Relief and Reconstruction

SEC. 2151. AUTHORIZATION OF ASSISTANCE FOR RELIEF AND RECONSTRUCTION EFFORTS.

(a) AUTHORIZATION.—The President is authorized to make available from the Iraq Relief and Reconstruction Fund established under the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11), $2,475,000,000 for fiscal year 2003 for the purposes of providing humanitarian assistance in and around Iraq and carrying out the purposes of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) with respect to the rehabilitation and reconstruction in Iraq.

(b) AUTHORIZED USES OF ASSISTANCE.—Assistance made available under subsection (a) may include funds for costs related to—

(1) infrastructure related to water and sanitation services;

(2) food and food distribution;

(3) the support of relief efforts related to refugees, internally displaced persons, and vulnerable individuals, including assistance for families of innocent Iraqi civilians who suffer losses as a result of military operations;

(4) electricity;

(5) health care;

(6) telecommunications;

(7) the development and implementation of economic and financial policy;

(8) education;

(9) transportation;

(10) reforms to strengthen the rule of law and introduce and reinforce the principles and institutions of good governance;

(11) humanitarian demining; and

(12) agriculture.

(c) REIMBURSEMENT.—Funds made available under subsection (a) may be used to reimburse accounts administered by the Secretary of State, the Secretary of the Treasury, or the Administrator of the United States Agency for International Development for any amounts expended from each such account to provide humanitarian assistance in and around Iraq or for carrying out the purposes of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) with respect to the rehabilitation and reconstruction in Iraq prior to the date of the enactment of this Act if such amounts have not been reimbursed with funds from any other source.

(d) POLICY.—It is the policy of the United States to work toward the full and active participation of women in the reconstruction of Iraq by promoting the involvement of women in—

(1) all levels of the government in Iraq and its decision-making institutions;

(2) the planning and distribution of assistance, including food aid; and

(3) job promotion and training programs.

SEC. 2152. REPORTING AND CONSULTATION.

Any report required to be submitted to, and any consultation required to be engaged in with, the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives under the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11) with respect to funds appropriated to carry out section 2151 shall also be submitted to and engaged in with, respectively, the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 2153. SPECIAL ASSISTANCE AUTHORITY.

(a) IN GENERAL.—Except as provided in subsection (b), assistance and other financing under this or any other Act may be provided to Iraq notwithstanding any other provision of law.

(b) NOTIFICATION OF PROGRAM CHANGES.—Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) shall apply to the assistance and other financing described in subsection (a), except that the notification required by subsection (a) of such section with respect to an obligation of funds shall be transmitted not later than 5 days in advance of the obligation.

SEC. 2154. INAPPLICABILITY OF CERTAIN RESTRICTIONS.

(a) IRAQ SANCTIONS ACT.—

(1) AUTHORITY TO SUSPEND.—The President may suspend the application of any provision of the Iraq Sanctions Act of 1990 (50 U.S.C. 1701 note).

(2) EXCEPTION.—Nothing in this section shall otherwise affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (50 U.S.C. 1701 note), except that such Act shall not apply to humanitarian assistance and supplies.

(b) INAPPLICABILITY OF TERRORIST STATE RESTRICTIONS.—The President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) and any other provisions of law that apply to countries that have provided support for terrorism.

(c) EXPORT OF NONLETHAL MILITARY EQUIPMENT.—

(1) AUTHORITY.—Notwithstanding any other provision of law except section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)), the President may authorize the export to Iraq of any nonlethal military equipment designated on the United States Munitions List and controlled under the International Trafficking in Arms Regulations established pursuant to section 38 of the Arms Export Control Act (22 U.S.C. 2778), if, not later than 5 days prior to such export, the President determines and notifies the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives that the export of such nonlethal military equipment is in the national interest of the United States.

(2) NONAPPLICABILITY OF LIMITATION.—The determination and notification requirement under paragraph (1) shall not apply to military equipment designated by the Secretary of State for use by a reconstituted or interim Iraqi military or police force.

(d) INTERNATIONAL ORGANIZATION ACTIVITIES WITH RESPECT TO IRAQ.—

(1) INTERNATIONAL ORGANIZATIONS AND PROGRAMS.—Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) shall not apply with respect to international organization programs for Iraq.

(2) INTERNATIONAL FINANCIAL INSTITUTIONS.—Provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds from an international financial institution, including for financial or technical assistance, shall not apply in the case of Iraq.

(e) NOTIFICATION OF EXERCISE OF AUTHORITIES.—

(1) NOTIFICATION.—Except as provided in subsection (c)(2), the President shall, not later than 5 days prior to exercising any of the authorities under or referred to in this section, submit a notification of such exercise of authority to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(2) REPORTING REQUIREMENT.—Not later than June 15, 2003, and every 90 days thereafter, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives a report containing a summary of all licenses approved for the export to Iraq of any item on the Commerce Control List contained in supplement 1 to part 774 of title 15, Code of Federal Regulations, under the Export Administration Regulations, including the identification of the end users of such items.

SEC. 2155. TERMINATION OF AUTHORITIES.

The authorities contained in section 2153 and in subsections (a), (b), and (c) of section 2154 shall expire on the date that is 2 years after the date of the enactment of this Act.

TITLE XXII—AMENDMENTS TO GENERAL FOREIGN ASSISTANCE AUTHORITIES

Subtitle A—Foreign Assistance Act Amendments and Related Provisions

SEC. 2201. DEVELOPMENT POLICY.

Section 102(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151–1(b)) is amended—

(1) in paragraph (5), by—

(A) striking ''development; and'' and inserting ''development;''; and

(B) inserting before the period at the end the following: ''; democracy and the rule of law; and economic growth and the building of trade capacity''; and

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

''(18) The United States development assistance program should take maximum advantage of the increased participation of United States private foundations, business enterprises, and private citizens in funding international development activities. The program should utilize the development experience and expertise of its personnel, its access to host-country officials, and its overseas presence to facilitate public-private alliances and to leverage private sector resources toward the achievement of development assistance objectives.''.

SEC. 2202. ASSISTANCE FOR NONGOVERNMENTAL ORGANIZATIONS.

Section 123(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151u(e)) is amended to read as follows:

''(e)(1) Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from—

''(A) funds made available to carry out this chapter and chapters 10, 11, and 12 of part I (22 U.S.C. 2293 et seq.) and chapter 4 of part II (22 U.S.C. 2346 et seq.); or

''(B) funds made available for economic assistance activities under the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

''(2) The President shall submit to Congress, in accordance with section 634A (22 U.S.C. 2394–1), advance notice of an intent to

obligate funds under the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations.

''(3) Assistance may not be furnished through nongovernmental organizations to the central government of a country under the authority of this subsection, but assistance may be furnished to local, district, or subnational government entities under such authority.''.

SEC. 2203. AUTHORITY FOR USE OF FUNDS FOR UNANTICIPATED CONTINGENCIES.

Section 451(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2261(a)(1)) is amended—

(1) by inserting ''or the Arms Export Control Act (22 U.S.C. 2751 et seq.)'' after ''chapter 1 of this part)''; and

(2) by striking ''$25,000,000'' and inserting ''$50,000,000''.

SEC. 2204. AUTHORITY TO ACCEPT LETHAL EXCESS PROPERTY.

Section 482(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(g)) is amended—

(1) by striking ''(g) EXCESS PROPERTY.—For'' and inserting the following:

''(g) EXCESS PROPERTY.—

''(1) AUTHORITY.—For'';

(2) by striking ''nonlethal'' and inserting ''(including lethal or nonlethal property)''; and

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

''(2) NOTIFICATION.—Before obligating any funds to obtain lethal excess property under paragraph (1), the Secretary shall submit a notification of such action to Congress in accordance with the procedures set forth in section 634A.''.

SEC. 2205. RECONSTRUCTION ASSISTANCE UNDER INTERNATIONAL DISASTER ASSISTANCE AUTHORITY.

Section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) is amended—

(1) in subsection (a), by striking ''assistance for the relief and rehabilitation of'' and inserting ''relief, rehabilitation, and reconstruction assistance for'';

(2) in subsection (b), by striking ''relief and rehabilitation'' and inserting ''relief, rehabilitation, and reconstruction''; and

(3) in subsection (c), by striking ''relief and rehabilitation'' and inserting ''relief, rehabilitation, and reconstruction assistance''.

SEC. 2206. FUNDING AUTHORITIES FOR ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

Chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) is amended—

(1) in section 498B(j)(1) (22 U.S.C. 2295b(j)(1))—

(A) by striking ''authorized to be appropriated for fiscal year 1993 by'' and inserting ''made available to carry out''; and

(B) by striking ''appropriated for fiscal year 1993''; and

(2) in section 498C(b)(1) (22 U.S.C. 2295c(b)(1)), by striking ''under subsection (a)'' and inserting ''to carry out this chapter''.

SEC. 2207. WAIVER OF NET PROCEEDS RESULTING FROM DISPOSAL OF UNITED STATES DEFENSE ARTICLES PROVIDED TO A FOREIGN COUNTRY ON A GRANT BASIS.

Section 505(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(f)) is amended by striking ''In the case of items which were delivered prior to 1985, the'' in the second sentence and inserting ''The''.

SEC. 2208. TRANSFER OF CERTAIN OBSOLETE OR SURPLUS DEFENSE ARTICLES IN THE WAR RESERVE STOCKPILES FOR ALLIES TO ISRAEL.

(a) TRANSFERS FOR CONCESSIONS.—

(1) AUTHORITY.—Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2231h), the President may transfer to Israel, in exchange for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) COVERED ITEMS.—The items referred to in paragraph (1) are armor, artillery, automatic weapons ammunition, missiles, and other munitions that—

(A) are obsolete or surplus items;

(B) are in the inventory of the Department of Defense;

(C) are intended for use as reserve stocks for Israel; and

(D) as of the date of enactment of this Act, are located in a stockpile in Israel.

(b) VALUE OF CONCESSIONS.—The value of concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) ADVANCE NOTIFICATION OF TRANSFERS.—Not later than 30 days before making a transfer under the authority of this section, the President shall transmit a notification of the proposed transfer to the Committees on Foreign Relations and Armed Services of the Senate and the Committees on International Relations and Armed Services of the House of Representatives. The notification shall identify the items to be transferred and the concessions to be received.

(d) EXPIRATION OF AUTHORITY.—No transfer may be made under the authority of this section more than 5 years after the date of the enactment of this Act.

SEC. 2209. ADDITIONS TO WAR RESERVE STOCKPILES FOR ALLIES FOR FISCAL YEAR 2004.

Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended—

(1) in subparagraph (A), by striking ''for fiscal year 2003'' and inserting ''for each of fiscal years 2003 and 2004''; and

(2) in subparagraph (B), by striking ''for fiscal year 2003'' and inserting ''for a fiscal year''.

SEC. 2210. RESTRICTIONS ON ECONOMIC SUPPORT FUNDS FOR LEBANON.

Section 1224 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228, 116 Stat. 1432; 22 U.S.C. 2346 note) is amended by adding at the end the following subsection:

''(c) EXCEPTION.—Subsection (a) does not apply to assistance made available to address the needs of southern Lebanon.''.

SEC. 2211. ADMINISTRATION OF JUSTICE.

Section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c) is amended—

(1) in subsection (a), by striking ''in countries in Latin America and the Caribbean'';

(2) in subsection (b)(3)—

(A) in subparagraph (C), by striking ''and'';

(B) in subparagraph (D), by inserting ''and''; and

(C) by adding at the end the following new subparagraph:

''(E) programs to enhance the protection of participants in judicial cases;'';

(3) by striking subsection (c);

(4) in subsection (e), by striking the second and third sentences; and

(5) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 2212. DEMINING PROGRAMS.

(a) CLARIFICATION OF AUTHORITY.—Section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348) is amended—

(1) in the second sentence, by striking ''Such assistance may include reimbursements'' and inserting ''Such assistance may include the following:

''(1) Reimbursements''; and

(2) by adding at the end the following:

''(2) Demining activities, clearance of unexploded ordnance, destruction of small arms, and related activities, notwithstanding any other provision of law.''.

(b) DISPOSAL OF DEMINING EQUIPMENT.—Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes, may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President determines appropriate.

(c) LANDMINE AWARENESS PROGRAM FOR THE CHILDREN OF AFGHANISTAN AND OTHER CHILDREN AT RISK IN AREAS OF CONFLICT.—

(1) FINDINGS.—Congress makes the following findings:

(A) Most landmines in Afghanistan were laid between 1980 and 1992.

(B) Additional landmines were laid between 1992 and 1996, during the conflict between the Taliban and the Northern Alliance.

(C) United States bombings against the Taliban in 2001 and 2002 further increased the unexploded ordinance and cluster bombs throughout Afghanistan.

(D) The clearance of landmines is a slow and expensive process.

(E) Certain types of landmines and other unexploded ordinance are small, brightly colored, and attractive to children.

(F) More than 150 Afghans, many of them children, are injured every month by these weapons.

(G) In 2003, reconstituted Taliban forces have sought out and attacked workers clearing landmines, in an attempt to discredit the Government of President Karzai and the United States military presence.

(H) In May 2003, after a string of Taliban attacks in which mine removal workers were killed or seriously injured, the United Nations suspended all mine-clearing operations in much of southern Afghanistan.

(I) Effective landmine awareness programs targeted to children could save lives in Afghanistan and in other areas of conflict where unexploded ordinance are a danger to the safety of children.

(2) AUTHORIZATION.—The President is authorized to furnish assistance to fund innovative programs designed to educate children in Afghanistan and other affected areas about the dangers of landmines and other unexploded ordinances, especially those proposed by organizations with extensive background in children's educational programs.

(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise authorized to be appropriated for demining and related activities under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), there are authorized to be appropriated for fiscal year 2004 such sums as may be necessary to carry out the purposes of this subsection.

SEC. 2213. SPECIAL WAIVER AUTHORITY.

(a) REVISION OF AUTHORITY.—Section 614 of the Foreign Assistance Act of 1961 (22 U.S.C. 2364) is amended in subsection (a) by—

(1) striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) The President may authorize any assistance, sale, or other action under this Act, the Arms Export Control Act (22 U.S.C. 2751 et seq.), or any other law that authorizes the furnishing of foreign assistance or the appropriation of funds for foreign assistance, without regard to any of the provisions described in subsection (b) if the President determines, and notifies the Committees on Foreign Relations and Appropriations of the Senate and

the Committees on International Relations and Appropriations of the House of Representatives in writing—

''(A) with respect to assistance or other actions under chapter 2 or 5 of part II of this Act, or sales or other actions under the Arms Export Control Act (22 U.S.C. 2751 et seq.), that to do so is vital to the national security interests of the United States; and

''(B) with respect to other assistance or actions, that to do so is important to the security interests of the United States.''; and

(2) redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(b) INCREASED LIMITATION ON SINGLE COUNTRY ALLOCATION.—Subsection (a)(3)(C) of such section, as redesignated, is amended by striking ''$50,000,000'' and inserting ''$75,000,000''.

(c) REPEAL OF PROVISIONS RELATING TO GERMANY AND A CERTIFICATION REQUIREMENT.—Section 614 of such Act is further amended by striking subsections (b) and (c).

(d) INAPPLICABLE OR WAIVABLE LAWS.—Such section, as amended by subsection (c), is further amended by adding at the end the following:

''(b) INAPPLICABLE OR WAIVABLE LAWS.—The provisions referred to in paragraphs (1) and (2) of subsection (a) are those set forth in any of the following:

''(1) Any provision of this Act.

''(2) Any provision of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

''(3) Any provision of law that authorizes the furnishing of foreign assistance or appropriates funds for foreign assistance.

''(4) Any other provision of law that restricts assistance, sales or leases, or other action under a provision of law referred to in paragraph (1), (2), or (3).

''(5) Any provision of law that relates to receipts and credits accruing to the United States.''.

SEC. 2214. PROHIBITION OF ASSISTANCE FOR COUNTRIES IN DEFAULT.

(a) CLARIFICATION OF PROHIBITED RECIPIENTS.—Section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) is amended—

(1) by striking ''any country'' and inserting ''the government of any country''; and

(2) by striking ''such country'' each place it appears and inserting ''such government''.

(b) PERIOD OF PROHIBITION.—Such section 620(q) is further amended by striking ''six calendar months'' and inserting ''one year''.

SEC. 2215. MILITARY COUPS.

Section 620 of the Foreign Assistance Act of 1961 (22 U.S.C. 2370) is amended by inserting after subsection (l) the following new subsection (m):

''(m)(1) No assistance may be furnished under this Act or the Arms Export Control Act (22 U.S.C. 2751 et seq.) for the government of a country if the duly elected head of government for such country is deposed by decree or military coup. The prohibition in the preceding sentence shall cease to apply to a country if the President determines and certifies to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that after the termination of assistance a democratically elected government for such country has taken office.

''(2) Paragraph (1) does not apply to assistance to promote democratic elections or public participation in democratic processes.

''(3) The President may waive the application of paragraph (1), and any comparable provision of law, to a country upon determining that it is important to the national security interest of the United States to do so.''.

SEC. 2216. DESIGNATION OF POSITION FOR WHICH APPOINTEE IS NOMINATED.

Section 624 of the Foreign Assistance Act of 1961 (22 U.S.C. 2584) is amended by inserting after subsection (c) the following new subsection (d):

''(d) NOMINATION OF OFFICERS.—Whenever the President submits to the Senate a nomination of an individual for appointment to a position authorized under subsection (a), the President shall designate the particular position in the agency for which the individual is nominated.''.

SEC. 2217. EXCEPTIONS TO REQUIREMENT FOR CONGRESSIONAL NOTIFICATION OF PROGRAM CHANGES.

Section 634A(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1(b)) is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

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

''(3) of funds if the advance notification would pose a substantial risk to human health or welfare, but such notification shall be provided to the committees of Congress named in subsection (a) not later than 3 days after the action is taken; or

''(4) of funds made available under section 23 of the Arms Export Control Act (22 U.S.C. 2763) for the provision of major defense equipment (other than conventional ammunition), aircraft, ships, missiles, or combat vehicles in quantities not in excess of 20 percent of the quantities previously justified under section 25 of such Act (22 U.S.C. 2765).''.

SEC. 2218. COMMITMENTS FOR EXPENDITURES OF FUNDS.

Section 635(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2395(h)) is amended by striking ''available'' and all that follows through ''may,'' and inserting ''made available under this Act may,''.

SEC. 2219. ALTERNATIVE DISPUTE RESOLUTION.

Section 635(i) of the Foreign Assistance Act of 1961 (22 U.S.C. 2395(i)) is amended to read as follows:

''(i) Notwithstanding any other provision of law, claims arising as a result of operations under this Act may be settled (including by use of alternative dispute resolution procedures) or arbitrated with the consent of the parties. Payment made pursuant to any such settlement or arbitration shall be final and conclusive.''.

SEC. 2220. ADMINISTRATIVE AUTHORITIES.

Section 636 of the Foreign Assistance Act of 1961 (22 U.S.C. 2396) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by—

(i) striking ''abroad''; and

(ii) striking ''Civil Service Commission'' and inserting ''Office of Personnel Management'';

(B) by striking paragraph (5) and inserting the following:

''(5) purchase and hire of passenger motor vehicles;''; and

(C) in paragraph (10), by striking ''for not to exceed ten years'';

(2) in subsection (c), by striking ''not to exceed $6,000,000 of the''; and

(3) in subsection (d), by striking ''Not to exceed $2,500,000 of funds'' and inserting ''Funds''.

SEC. 2221. ASSISTANCE FOR LAW ENFORCEMENT FORCES.

Section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking ''and the provision of professional'' and all that follows through ''democracy'' and inserting ''including any regional, district, municipal, or other subnational entity emerging from instability'';

(B) by striking the period at the end of paragraph (7) and inserting a semicolon; and

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

''(8) with respect to assistance to combat corruption in furtherance of the objectives for which programs are authorized to be established under section 133 of this Act (22 U.S.C. 2152c);

''(9) with respect to the provision of professional public safety training, including training in internationally recognized standards of human rights, the rule of law, and the promotion of civilian police roles that support democracy; and

''(10) with respect to assistance to combat trafficking in persons.''; and

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

''(d) Subsection (a) does not apply to assistance for law enforcement forces for which the Secretary, on a case-by-case basis, determines that it is important to the national interest of the United States to furnish such assistance and submits to the committees of the Congress referred to in subsection (a) of section 634A of this Act (22 U.S.C. 2394–1) an advance notification of the obligation of funds for such assistance in accordance with such section 634A.''.

SEC. 2222. SPECIAL DEBT RELIEF FOR THE POOREST.

The Foreign Assistance Act of 1961 is amended by adding at the end the following:

''PART VI—SPECIAL DEBT RELIEF FOR THE POOREST

''SEC. 901. SPECIAL DEBT RELIEF FOR THE POOREST.

''(a) AUTHORITY.—Subject to subsections (b) and (c), the President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of any of the following transactions:

''(1) Concessional loans extended under part I of this Act, or chapter 4 of part II of this Act, or antecedent foreign economic assistance laws.

''(2) Guarantees issued under sections 221 and 222 of this Act.

''(3) Credits extended or guarantees issued under the Arms Export Control Act (22 U.S.C. 2751 et seq.).

''(4) Any obligation, or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to—

''(A) section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f));

''(B) section 201(b) of the Agricultural Trade Act of 1978 (7 U.S.C. 5621(b)); or

''(C) section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622).

''(b) GENERAL LIMITATIONS.—

''(1) EXCLUSIVE CONDITIONS.—The authority provided in subsection (a) may be exercised—

''(A) only to implement multilateral official debt relief and referendum agreements, commonly referred to as 'Paris Club Agreed Minutes';

''(B) only in such amounts or to such extent as is provided in advance in appropriations Acts; and

''(C) only with respect to countries with heavy debt burdens that—

''(i) are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as 'IDA-only' countries; and

''(ii) are not determined ineligible under subsection (c).

''(2) ADVANCE NOTIFICATION OF CONGRESS.—The authority provided by subsection (a) shall be subject to the requirements of section 634A of this Act (22 U.S.C. 2394–1).

''(c) ELIGIBILITY LIMITATIONS.—The authority provided by subsection (a) may be exercised only with respect to a country the government of which, as determined by the President—

''(1) does not make an excessive level of military expenditures;

''(2) has not repeatedly provided support for acts of international terrorism;

''(3) is not failing to cooperate on international narcotics control matters;

''(4) does not engage, through its military or security forces or by other means, in a consistent pattern of gross violations of internationally recognized human rights; and

''(5) is not ineligible for assistance under section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2370a).

''(d) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) may not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided in subsection (a) may be exercised notwithstanding section 620(r) of this Act (22 U.S.C. 2370(r)) or section 321 of the International Development and Food Assistance Act of 1975 (22 U.S.C. 2220a note).''.

SEC. 2223. CONGO BASIN FOREST PARTNERSHIP.

(a) FINDINGS.—Congress makes the following findings:

(1) Deforestation and environmental degradation in the Congo Basin in central Africa pose a major threat to the wellbeing and livelihood of the African people and to the world at large.

(2) It is in the national interest of the United States to assist the countries of the Congo Basin to reduce the rate of forest degradation and loss of biodiversity.

(3) The Congo Basin Forest Partnership, an initiative involving the Central Africa Regional Program for the Environment of the United States Agency for International Development, and also the Department of State, the United States Fish and Wildlife Service, the National Park Service, the National Forest Service, and National Aeronautics and Space Administration, was established to address in a variety of ways the environmental conditions in the Congo Basin.

(4) In partnership with nongovernmental environmental groups, the Congo Basin Forest Partnership will foster improved conservation and management of natural resources through programs at the local, national, and regional levels to help reverse the environmental degradation of the Congo Basin.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Congo Basin Forest Partnership program represents a significant effort at addressing the complex environmental and development challenges in the Congo Basin; and

(2) the President should make available for fiscal year 2004 at least the total level of assistance that the President requested for such fiscal year for all agencies participating in the Congo Basin Forest Partnership program for fiscal year 2004.

SEC. 2224. LANDMINE CLEARANCE PROGRAMS.

The Secretary of State is authorized to support cooperative arrangements commonly known as public-private partnerships for landmine clearance programs by grant or cooperative agreement.

SEC. 2225. MIDDLE EAST FOUNDATION.

(a) PURPOSES.—The purposes of this section are to support, through the provision of grants, technical assistance, training, and other programs, in the countries of the Middle East, the expansion of—

(1) civil society;

(2) opportunities for political participation for all citizens;

(3) protections for internationally recognized human rights, including the rights of women;

(4) educational system reforms;

(5) independent media;

(6) policies that promote economic opportunities for citizens;

(7) the rule of law; and

(8) democratic processes of government.

(b) MIDDLE EAST FOUNDATION.—

(1) DESIGNATION.—The Secretary of State is authorized to designate an appropriate private, nonprofit organization that is organized or incorporated under the laws of the United States or of a State as the Middle East Foundation (referred to in this section as the ''Foundation'').

(2) FUNDING.—The Secretary of State is authorized to provide funding to the Foundation through the Middle East Partnership Initiative of the Department of State. The Foundation shall use amounts provided under this paragraph to carry out the purposes of this section, including through making grants and providing other assistance to entities to carry out programs for such purposes.

(3) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives before designating an appropriate organization as the Foundation.

(c) GRANTS FOR PROJECTS.—

(1) FOUNDATION TO MAKE GRANTS.—The Secretary of State shall enter into an agreement with the Foundation that requires the Foundation to use the funds provided under subsection (b)(2) to make grants to persons (other than governments or government entities) located in the Middle East or working with local partners based in the Middle East to carry out projects that support the purposes specified in subsection (a).

(2) CENTER FOR PUBLIC POLICY.—Under the agreement described in paragraph (1), the Foundation may make a grant to an institution of higher education located in the Middle East to create a center for public policy for the purpose of permitting scholars and professionals from the countries of the Middle East and from other countries, including the United States, to carry out research, training programs, and other activities to inform public policymaking in the Middle East and to promote broad economic, social, and political reform for the people of the Middle East.

(3) APPLICATIONS FOR GRANTS.—An entity seeking a grant from the Foundation under this section shall submit an application to the head of the Foundation at such time, in such manner, and including such information as the head of the Foundation may reasonably require.

(d) PRIVATE CHARACTER OF THE FOUNDATION.—Nothing in this section shall be construed to—

(1) make the Foundation an agency or establishment of the United States Government, or to make the officers or employees of the Foundation officers or employees of the United States for purposes of title 5, United States Code; or

(2) to impose any restriction on the Foundation's acceptance of funds from private and public sources in support of its activities consistent with the purposes of this section.

(e) LIMITATION ON PAYMENTS TO FOUNDATION PERSONNEL.—No part of the funds provided to the Foundation under this section shall inure to the benefit of any officer or employee of the Foundation, except as salary or reasonable compensation for services.

(f) RETENTION OF INTEREST.—The Foundation may hold funds provided under this section in interest-bearing accounts prior to the disbursement of such funds to carry out the purposes of this section, and may retain for use for such purposes any interest earned without returning such interest to the Treasury of the United States and without further appropriation by Congress.

(g) FINANCIAL ACCOUNTABILITY.—

(1) INDEPENDENT PRIVATE AUDITS OF THE FOUNDATION.—The accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of the independent audit shall be included in the annual report required by subsection (h).

(2) GAO AUDITS.—The financial transactions undertaken pursuant to this section by the Foundation may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States.

(3) AUDITS OF GRANT RECIPIENTS.—

(A) IN GENERAL.—A recipient of a grant from the Foundation shall agree to permit an audit of the books and records of such recipient related to the use of the grant funds.

(B) RECORDKEEPING.—Such recipient shall maintain appropriate books and records to facilitate an audit referred to subparagraph (A), including—

(i) separate accounts with respect to the grant funds;

(ii) records that fully disclose the use of the grant funds;

(iii) records describing the total cost of any project carried out using grant funds; and

(iv) the amount and nature of any funds received from other sources that were combined with the grant funds to carry out a project.

(h) ANNUAL REPORTS.—Not later than January 31, 2005, and annually thereafter, the Foundation shall submit to Congress and make available to the public an annual report that includes, for the fiscal year prior to the fiscal year in which the report is submitted, a comprehensive and detailed description of—

(1) the operations and activities of the Foundation that were carried out using funds provided under this section;

(2) grants made by the Foundation to other entities with funds provided under this section;

(3) other activities of the Foundation to further the purposes of this section; and

(4) the financial condition of the Foundation.

Subtitle B—Arms Export Control Act Amendments and Related Provisions

SEC. 2231. THRESHOLDS FOR ADVANCE NOTICE TO CONGRESS OF SALES OR UPGRADES OF DEFENSE ARTICLES, DESIGN AND CONSTRUCTION SERVICES, AND MAJOR DEFENSE EQUIPMENT.

(a) LETTERS OF OFFER TO SELL.—Subsection (b) of section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended—

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

(A) by striking ''Subject to paragraph (6), in'' and inserting ''In'';

(B) by striking ''$50,000,000'' and inserting ''$100,000,000'';

(C) by striking ''services for $200,000,000'' and inserting ''services for $350,000,000'';

(D) by striking ''$14,000,000'' and inserting ''$50,000,000''; and

(E) by inserting ''and in other cases if the President determines it is appropriate,'' before ''before such letter'';

(2) in the first sentence of paragraph (5)(C)—

(A) by striking ''Subject to paragraph (6), if'' and inserting ''If'';

(B) by striking ''$14,000,000'' and inserting ''$50,000,000'';

(C) by striking ''$50,000,000'' and inserting ''$100,000,000'';

(D) by striking ''or $200,000,000'' and inserting ''or $350,000,000''; and

(E) by inserting ''and in other cases if the President determines it is appropriate,'' before ''then the President''; and

(3) by striking paragraph (6).

(b) EXPORT LICENSES.—Subsection (c) of section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended—

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

(A) by striking ''Subject to paragraph (5), in'' and inserting ''In'';

(B) by striking ''$14,000,000'' and inserting ''$50,000,000'';

(C) by striking ''$50,000,000'' and inserting ''$100,000,000''; and

(D) by inserting ''and in other cases if the President determines it is appropriate,'' before ''before issuing such'';

(2) in the last sentence of paragraph (2), by striking ''(A) and (B)'' and inserting ''(A), (B), and (C)''; and

(3) by striking paragraph (5).

(c) PRESIDENTIAL CONSENT.—Section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) is amended—

(1) in paragraphs (1) and (3)(A)—

(A) by striking ''Subject to paragraph (5), the'' and inserting ''The'';

(B) by striking ''$14,000,000'' and inserting ''$50,000,000''; and

(C) by striking ''$50,000,000'' and inserting ''$100,000,000''; and

(2) by striking paragraph (5).

SEC. 2232. CLARIFICATION OF REQUIREMENT FOR ADVANCE NOTICE TO CONGRESS OF COMPREHENSIVE EXPORT AUTHORIZATIONS.

Subsection (d) of section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended—

(1) in paragraph (1)—

(A) by inserting ''(A)'' after ''(1)'';

(B) by striking ''this subsection'' and inserting ''this subparagraph''; and

(C) by adding at the end the following new subparagraph:

''(B) Notwithstanding section 27(g), in the case of a comprehensive authorization described in section 126.14 of title 22, Code of Federal Regulations (or any corresponding similar regulation) for the proposed export of defense articles or defense services in an amount that exceeds a limitation set forth in subsection (c)(1), before the comprehensive authorization is approved or the addition of a foreign government or other foreign partner to the comprehensive authorization is approved, the President shall submit a certification with respect to the comprehensive authorization in a manner similar to the certification required under subsection (c)(1) of this section and containing comparable information, except that the last sentence of such subsection shall not apply to certifications submitted pursuant to this subparagraph.''; and

(2) in paragraph (4), by striking ''Approval for an agreement subject to paragraph (1) may not be given under section 38'' and inserting ''Approval for an agreement subject to paragraph (1)(A), or for a comprehensive authorization subject to paragraph (1)(B), may not be given under section 38 or section 126.14 of title 22, Code of Federal Regulations (or any corresponding similar regulation), as the case may be,''.

SEC. 2233. EXCEPTION TO BILATERAL AGREEMENT REQUIREMENTS FOR TRANSFERS OF DEFENSE ITEMS WITHIN AUSTRALIA.

(a) EXCEPTION ON TRANSFERS WITHIN AUSTRALIA.—Subsection (j) of section 38 of the Arms Export Control Act (22 U.S.C. 2778(j)) is amended by adding at the end the following new paragraph:

''(5) EXCEPTION FROM BILATERAL AGREEMENT REQUIREMENTS.—The requirements for a bilateral agreement described in paragraph (2)(A) of this subsection shall not apply to such an agreement between the United States Government and the Government of Australia with respect to transfers within Australia of defense items that will remain subject to the licensing requirements of this Act after the agreement enters into force.''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of such subsection (22 U.S.C. 2778(j)(2)) is amended in the material preceding subparagraph (A) by striking ''A bilateral agreement'' and inserting ''Except as provided in paragraph 5, a bilateral agreement''.

SEC. 2234. AUTHORITY TO PROVIDE CATALOGING DATA AND SERVICES TO NON-NATO COUNTRIES.

Section 21(h)(2) of the Arms Export Control Act (22 U.S.C. 2761(h)(2)) is amended by striking ''to the North Atlantic Treaty Organization or to any member government of that Organization if that Organization or member government'' and inserting ''to the North Atlantic Treaty Organization, to any member government of that Organization, or to the government of any other country if that Organization, member government, or other government''.

SEC. 2235. FREEDOM SUPPORT ACT PERMANENT WAIVER AUTHORITY.

(a) AUTHORITY TO WAIVE RESTRICTIONS AND ELIGIBILITY REQUIREMENTS.—If the President submits the certification and report described in subsection (b) with respect to an independent state of the former Soviet Union for a fiscal year, funds may be obligated and expended during that fiscal year under sections 503 and 504 of the FREEDOM Support Act (22 U.S.C. 5853 and 5854) for assistance or other programs and activities for that state even if that state has not met one or more of the requirements for eligibility under paragraphs (1) through (4) of section 502 of such Act (22 U.S.C. 5852).

(b) CERTIFICATION AND REPORT.—

(1) IN GENERAL.—The certification and report referred to in subsection (a) are a written certification submitted by the President to Congress that the waiver of the restriction under such section 502 and the requirements in that section during the fiscal year covered by such certification is important to the national security interests of the United States, together with a report containing the following:

(A) A description of the activity or activities that prevent the President from certifying that the state is committed to the matters set forth in the provisions of law specified in subsection (a) in such fiscal year.

(B) An explanation of why the waiver is important to the national security interests of the United States.

(C) A description of the strategy, plan, or policy of the President for promoting the commitment of the state to, and compliance by the state with, such matters, notwithstanding the waiver.

(2) FORM OF REPORT.—A report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

SEC. 2236. EXTENSION OF PAKISTAN WAIVERS.

The Act entitled ''An Act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes'', approved October 27, 2001 (Public Law 107–57; 115 Stat. 403), is amended—

(1) in section 1(a)—

(A) by striking ''2002'' in the heading and inserting ''2004''; and

(B) by striking ''2002'' in paragraph (1) and inserting ''2004'';

(2) in paragraph (2) of section 3, by striking ''Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 2002, as is'' and inserting ''annual foreign operations, export financing, and related programs appropriations Acts for fiscal years 2002, 2003, and 2004, as are''; and

(3) in section 6, by striking ''October 1, 2003'' and inserting ''October 1, 2004''.

SEC. 2237. CONSOLIDATION OF REPORTS ON NONPROLIFERATION IN SOUTH ASIA.

Section 1601(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 is amended to read as follows:

''(c) REPORT.—The report required to be submitted to Congress not later than April 1, 2004 pursuant to section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376(c)) shall include a description of the efforts of the United States Government to achieve the objectives described in subsections (a) and (b), the progress made toward achieving such objectives, and the likelihood that such objectives will be achieved by September 30, 2004.''.

SEC. 2238. HAITIAN COAST GUARD.

The Government of Haiti shall be eligible to purchase defense articles and services for the Haitian Coast Guard under the Arms Export Control Act (22 U.S.C. 2751 et seq.), subject to the prior notification requirements under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

SEC. 2239. SENSE OF CONGRESS RELATING TO EXPORTS OF DEFENSE ITEMS TO THE UNITED KINGDOM.

(a) FINDINGS.—Congress makes the following findings:

(1) The continued cooperation between the United States and the United Kingdom is critical to the national security and economic stability of the United States and the world.

(2) The United Kingdom has demonstrated a commitment to implementing and maintaining an effective export control system that prohibits countries designated as supporting international terrorism and other rogue states from securing items and technology that threaten the national security of the United States.

(3) The United States and the United Kingdom have been strategic partners with respect to the efforts of the United Nations Security Council Counter-Terrorism Committee to eradicate terrorism and the financing of terrorist activities.

(4) The war in Iraq demonstrated the close cooperation that exists between the United States and the United Kingdom with respect to military and defense operations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government and the Government of the United Kingdom should finalize a bilateral agreement with respect to an exemption for certain qualified United States-origin defense items from the licensing requirements under the International Traffic in Arms Regulations (ITAR); and

(2) following the completion of the bilateral agreement, the United States should approve an exception, as appropriate, relating to the bilateral agreement with the United Kingdom from the requirements described in section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)).

SEC. 2240. MARKETING INFORMATION FOR COMMERCIAL COMMUNICATIONS SATELLITES.

(a) IN GENERAL.—A license shall not be required under section 38 of the Arms Export

Control Act (22 U.S.C. 2778) for the transfer of marketing information for the purpose of providing information directly related to the sale of commercial communications satellites and related parts to a member country of the North Atlantic Treaty Organization (NATO) and Australia, Japan, and New Zealand.

(b) MARKETING INFORMATION.—In this section, the term ''marketing information'' means data that a seller must provide to a potential customer (including a foreign end-user) that will enable the customer to make a purchase decision to award a contract for goods or services, including system description, functional information, price and schedule information, information required for installation, operation, maintenance, and repair, and includes that level of data necessary to ensure safe use of the product, but does not include sensitive encryption and source code data, detailed design data, engineering analysis, or manufacturing know-how.

(c) EXCEPTION.—Nothing in this section shall exempt commercial communications satellites from any licensing requirement under section 38 of the Arms Export Control Act (22 U.S.C. 2778) for defense items and defense services, except as described in subsection (a).

TITLE XXIII—RADIOLOGICAL TERRORISM THREAT REDUCTION

SEC. 2301. SHORT TITLE.

This title may be cited as the ''Radiological Terrorism Threat Reduction Act of 2003''.

SEC. 2302. FINDINGS.

Congress makes the following findings:

(1) It is feasible for terrorists to obtain and disseminate radioactive material by using a radiological dispersion device (RDD) or by emplacing discrete radioactive sources in major public places.

(2) An attack by terrorists using radiological material could cause catastrophic economic and social damage, although it might kill few, if any, Americans.

(3) The first line of defense against radiological terrorism is preventing the acquisition of radioactive material by terrorists.

SEC. 2303. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—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.

(2) BYPRODUCT MATERIAL.—The term ''byproduct material'' has the meaning given the term in section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

(3) IAEA.—The term ''IAEA'' means the International Atomic Energy Agency.

(4) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—The term ''independent states of the former Soviet Union'' has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(5) RADIOACTIVE MATERIAL.—The term ''radioactive material'' means—

(A) source material and special nuclear material, but does not include natural or depleted uranium;

(B) nuclear byproduct material;

(C) material made radioactive by bombardment in an accelerator; and

(D) all refined isotopes of radium.

(6) RADIOACTIVE SOURCE.—The term ''radioactive source'' means radioactive material that is permanently sealed in a capsule or closely bonded and includes any radioactive material released if the source is leaking or stolen, but does not include any material within the nuclear fuel cycle of a research or power reactor.

(7) RADIOISOTOPE THERMAL GENERATOR.—The term ''radioisotope thermal generator'' means an electrical generator which derives its power from the heat produced by the decay of a radioactive source by the emission of alpha, beta, or gamma radiation. The term does not include nuclear reactors deriving their energy from the fission or fusion of atomic nuclei.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of State.

(9) SOURCE MATERIAL.—The term ''source material'' has the meaning given the term in section 11 z. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

(10) SPECIAL NUCLEAR MATERIAL.—The term ''special nuclear material'' has the meaning given the term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

SEC. 2304. INTERNATIONAL STORAGE FACILITIES FOR RADIOACTIVE SOURCES.

(a) AGREEMENTS ON TEMPORARY SECURE STORAGE.—The Secretary is authorized to propose that the IAEA conclude agreements with up to 8 countries under which agreement each country would provide temporary secure storage for orphaned, unused, surplus, or other radioactive sources (other than special nuclear material, nuclear fuel, or spent nuclear fuel). Such agreements shall be consistent with the IAEA Code of Conduct on the Safety and Security of Radioactive Sources, and shall address the need for storage of such radioactive sources in countries or regions of the world where convenient access to secure storage of such radioactive sources does not exist.

(b) VOLUNTARY CONTRIBUTIONS TO IAEA AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make voluntary contributions to the IAEA for use by the Department of Nuclear Safety of the IAEA to fund the United States share of the costs of activities associated with or under agreements under subsection (a).

(2) UNITED STATES SHARE IN FISCAL YEAR 2004.—The United States share of the costs of activities under agreements under subsection (a) in fiscal year 2004 may be 100 percent of the costs of such activities in that fiscal year.

(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide the IAEA and other countries with technical assistance to carry out activities under agreements under subsection (a) in a manner that meets the standards of the IAEA Code of Conduct on the Safety and Security of Radioactive Sources.

(d) APPLICABILITY OF ENVIRONMENTAL LAWS.—

(1) INAPPLICABILITY OF NEPA TO FACILITIES OUTSIDE UNITED STATES.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply with respect to any temporary secure storage facility constructed outside the United States under an agreement under subsection (a).

(2) APPLICABILITY OF FOREIGN ENVIRONMENTAL LAWS.—The construction and operation of a facility described in paragraph (1) shall be governed by any applicable environmental laws of the country in which the facility is constructed.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under this division for Nonproliferation, Anti-terrorism, Demining, and Related Programs, there is authorized to be appropriated to the President for fiscal year 2004, $4,000,000 to carry out this section.

(2) AVAILABILITY.—Amounts authorized to be appropriated by paragraph (1) are authorized to remain available until expended.

SEC. 2305. DISCOVERY, INVENTORY, AND RECOVERY OF RADIOACTIVE SOURCES.

(a) AUTHORITY.—The Secretary is authorized to provide assistance, including through voluntary contributions to the IAEA under subsection (b), to support a program of the Division of Radiation and Waste Safety of the Department of Nuclear Safety of the IAEA to promote the discovery, inventory, and recovery of radioactive sources in member nations of the IAEA.

(b) VOLUNTARY CONTRIBUTIONS TO IAEA AUTHORIZED.—The Secretary is authorized to make voluntary contributions to the IAEA to fund the United States share of the program described in subsection (a).

(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide the IAEA and other countries with technical assistance to carry out the program described in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under this Act for Nonproliferation, Anti-terrorism, Demining, and Related Programs, there is authorized to be appropriated to the President for fiscal year 2004, $4,000,000 to carry out this section.

(2) AVAILABILITY.—Amounts authorized to be appropriated by paragraph (1) are authorized to remain available until expended.

SEC. 2306. RADIOISOTOPE THERMAL GENERATOR POWER UNITS IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) SUBSTITUTION WITH OTHER POWER UNITS.—

(1) IN GENERAL.—The Secretary is authorized to assist the Government of the Russian Federation to substitute solar (or other nonnuclear) power sources for radioisotope thermal power units operated by the Russian Federation and other independent states of the former Soviet Union in applications such as lighthouses in the Arctic, remote weather stations, and for providing electricity in remote locations.

(2) TECHNOLOGY REQUIREMENT.—Any power unit utilized as a substitute power unit under paragraph (1) shall, to the maximum extent practicable, be based upon tested technologies that have operated for at least one full year in the environment where the substitute power unit will be used.

(b) CONSULTATION.—The Secretary shall consult with the Secretary of Energy to ensure that substitute power sources provided under this section are for facilities from which the radioisotope thermal generator power units have been or are being removed.

(c) ACTIVITIES OUTSIDE FORMER SOVIET UNION.—The Secretary may use not more than 20 percent of the funds available under this section in any fiscal year to replace dangerous radioisotope thermal power facilities that are similar to the facilities described in subsection (a) in countries other than the independent states of the former Soviet Union.

(d) FUNDING.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under this Act for Nonproliferation, Anti-terrorism, Demining, and Related Programs, there is authorized to be appropriated to the President for fiscal year 2004, $5,000,000 to carry out this section.

(2) AVAILABILITY OF FUNDS.—Amounts available under paragraph (1) are authorized to remain available until expended.

SEC. 2307. FOREIGN FIRST RESPONDERS.

(a) IN GENERAL.—The Secretary is authorized to assist foreign countries, or to propose that the IAEA assist foreign countries, in the development of appropriate national response plans and the training of first responders to—

(1) detect, identify, and characterize radioactive material;

(2) understand the hazards posed by radioactive contamination;

(3) understand the risks encountered at various dose rates;

(4) enter contaminated areas safely and speedily; and

(5) evacuate persons within a contaminated area.

(b) CONSIDERATIONS.—In carrying out activities under subsection (a), the Secretary shall take into account the findings of the threat assessment report required by section 2308 and the location of any storage facilities for radioactive sources under section 2304.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under this Act for Nonproliferation, Anti-terrorism, Demining, and Related Programs, there is authorized to be appropriated to the President for fiscal year 2004, $2,000,000 to carry out this section.

(2) AVAILABILITY.—Amounts authorized to be appropriated by paragraph (1) are authorized to remain available until expended.

SEC. 2308. THREAT ASSESSMENT REPORTS.

(a) REPORTS REQUIRED.—The Secretary shall, at the times specified in subsection (c), submit to the appropriate congressional committees a report—

(1) detailing the preparations made at United States diplomatic missions abroad to detect and mitigate a radiological attack on United States missions and other United States facilities under the control of the Secretary;

(2) setting forth a rank-ordered list of the Secretary's priorities for improving radiological security and consequence management at United States missions; and

(3) providing a rank-ordered list of the missions where such improvement is most important.

(b) BUDGET REQUEST.—Each report under subsection (a) shall also include a proposed budget to carry out the improvements described in subsection (a)(2) under such report.

(c) TIMING.—

(1) FIRST REPORT.—The first report under subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act.

(2) SUBSEQUENT REPORTS.—Subsequent reports under subsection (a) shall be submitted with the budget justification materials submitted by the Secretary to Congress in support of the budget of the President for the fiscal year (as submitted under section 1105(a) of title 31, United States Code) for each fiscal year commencing with fiscal year 2006.

(d) FORM.—Each report shall be submitted in unclassified form, but may include a classified annex.

TITLE XXIV—GLOBAL PATHOGEN SURVEILLANCE

SEC. 2401. SHORT TITLE.

This title may be cited as the ''Global Pathogen Surveillance Act of 2003''.

SEC. 2402. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Bioterrorism poses a grave national security threat to the United States. The insidious nature of the threat, the likely delayed recognition in the event of an attack, and the underpreparedness of the domestic public health infrastructure may produce catastrophic consequences following a biological weapons attack upon the United States.

(2) A contagious pathogen engineered as a biological weapon and developed, tested, produced, or released in another country can quickly spread to the United States. Given the realities of international travel, trade, and migration patterns, a dangerous pathogen released anywhere in the world can spread to United States territory in a matter of days, before any effective quarantine or isolation measures can be implemented.

(3) To effectively combat bioterrorism and ensure that the United States is fully prepared to prevent, diagnose, and contain a biological weapons attack, measures to strengthen the domestic public health infrastructure and improve domestic surveillance and monitoring, while absolutely essential, are not sufficient.

(4) The United States should enhance cooperation with the World Health Organization, regional health organizations, and individual countries, including data sharing with appropriate United States departments and agencies, to help detect and quickly contain infectious disease outbreaks or bioterrorism agents before they can spread.

(5) The World Health Organization (WHO) has done an impressive job in monitoring infectious disease outbreaks around the world, including the recent emergence of the Severe Acute Respiratory Syndrome (SARS) epidemic, particularly with the establishment in April 2000 of the Global Outbreak Alert and Response network.

(6) The capabilities of the World Health Organization are inherently limited by the quality of the data and information it receives from member countries, the narrow range of diseases (plague, cholera, and yellow fever) upon which its disease surveillance and monitoring is based, and the consensus process it uses to add new diseases to the list. Developing countries in particular often cannot devote the necessary resources to build and maintain public health infrastructures.

(7) In particular, developing countries could benefit from—

(A) better trained public health professionals and epidemiologists to recognize disease patterns;

(B) appropriate laboratory equipment for diagnosis of pathogens;

(C) disease reporting based on symptoms and signs (known as ''syndrome surveillance''), affording the earliest possible opportunity to conduct an effective response;

(D) a narrowing of the existing technology gap in syndrome surveillance capabilities and real-time information dissemination to public health officials; and

(E) appropriate communications equipment and information technology to efficiently transmit information and data within national and regional health networks, including inexpensive, Internet-based Geographic Information Systems (GIS) and relevant telephone-based systems for early recognition and diagnosis of diseases.

(8) An effective international capability to monitor and quickly diagnose infectious disease outbreaks will offer dividends not only in the event of biological weapons development, testing, production, and attack, but also in the more likely cases of naturally occurring infectious disease outbreaks that could threaten the United States. Furthermore, a robust surveillance system will serve to deter terrorist use of biological weapons, as early detection will help mitigate the intended effects of such malevolent uses.

(b) PURPOSE.—The purposes of this title are as follows:

(1) To enhance the capability and cooperation of the international community, including the World Health Organization and individual countries, through enhanced pathogen surveillance and appropriate data sharing, to detect, identify, and contain infectious disease outbreaks, whether the cause of those outbreaks is intentional human action or natural in origin.

(2) To enhance the training of public health professionals and epidemiologists from eligible developing countries in advanced Internet-based and other electronic syndrome surveillance systems, in addition to traditional epidemiology methods, so that they may better detect, diagnose, and contain infectious disease outbreaks, especially those due to pathogens most likely to be used in a biological weapons attack.

(3) To provide assistance to developing countries to purchase appropriate public health laboratory equipment necessary for infectious disease surveillance and diagnosis.

(4) To provide assistance to developing countries to purchase appropriate communications equipment and information technology, including, as appropriate, relevant computer equipment, Internet connectivity mechanisms, and telephone-based applications to effectively gather, analyze, and transmit public health information for infectious disease surveillance and diagnosis.

(5) To make available greater numbers of United States Government public health professionals to international health organizations, regional health networks, and United States diplomatic missions where appropriate.

(6) To establish ''lab-to-lab'' cooperative relationships between United States public health laboratories and established foreign counterparts.

(7) To expand the training and outreach activities of overseas United States laboratories, including Centers for Disease Control and Prevention and Department of Defense entities, to enhance the disease surveillance capabilities of developing countries.

(8) To provide appropriate technical assistance to existing regional health networks and, where appropriate, seed money for new regional networks.

SEC. 2403. DEFINITIONS.

In this title:

(1) BIOLOGICAL WEAPONS CONVENTION.—The term ''Biological Weapons Convention'' means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, signed at Washington, London, and Moscow April 10, 1972.

(2) ELIGIBLE DEVELOPING COUNTRY.—The term ''eligible developing country'' means any developing country that—

(A) has agreed to the objective of fully complying with requirements of the World Health Organization on reporting public health information on outbreaks of infectious diseases;

(B) has not been determined by the Secretary, for purposes of section 40 of the Arms Export Control Act (22 U.S.C. 2780), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405), to have repeatedly provided support for acts of international terrorism, unless the Secretary exercises a waiver certifying that it is in the national interest of the United States to provide assistance under the provisions of this title; and

(C) is a state party to the Biological Weapons Convention.

(3) ELIGIBLE NATIONAL.—The term ''eligible national'' means any citizen or national of an eligible developing country who is eligible to receive a visa under the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(4) INTERNATIONAL HEALTH ORGANIZATION.—The term ''international health organization'' includes the World Health Organization and the Pan American Health Organization.

(5) LABORATORY.—The term ''laboratory'' means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(6) SECRETARY.—Unless otherwise provided, the term ''Secretary'' means the Secretary of State.

(7) SELECT AGENT.—The term ''select agent'' has the meaning given such term for purposes of section 72.6 of title 42, Code of Federal Regulations.

(8) SYNDROME SURVEILLANCE.—The term ''syndrome surveillance'' means the recording of symptoms (patient complaints) and signs (derived from physical examination) combined with simple geographic locators to track the emergence of a disease in a population.

SEC. 2404. PRIORITY FOR CERTAIN COUNTRIES.

Priority in the provision of United States assistance for eligible developing countries under all the provisions of this title shall be given to those countries that permit personnel from the World Health Organization and the Centers for Disease Control and Prevention to investigate outbreaks of infectious diseases on their territories, provide early notification of disease outbreaks, and provide pathogen surveillance data to appropriate United States departments and agencies in addition to international health organizations.

SEC. 2405. RESTRICTION.

Notwithstanding any other provision of this title, no foreign nationals participating in programs authorized under this title shall have access, during the course of such participation, to select agents that may be used as, or in, a biological weapon, except in a supervised and controlled setting.

SEC. 2406. FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—There is established a fellowship program (in this section referred to as the ''program'') under which the Secretary, in consultation with the Secretary of Health and Human Services and subject to the availability of appropriations, shall award fellowships to eligible nationals to pursue public health education or training, as follows:

(1) MASTER OF PUBLIC HEALTH DEGREE.—Graduate courses of study leading to a master of public health degree with a concentration in epidemiology from an institution of higher education in the United States with a Center for Public Health Preparedness, as determined by the Centers for Disease Control and Prevention.

(2) ADVANCED PUBLIC HEALTH EPIDEMIOLOGY TRAINING.—Advanced public health training in epidemiology to be carried out at the Centers for Disease Control and Prevention (or equivalent State facility), or other Federal facility (excluding the Department of Defense or United States National Laboratories), for a period of not less than 6 months or more than 12 months.

(b) SPECIALIZATION IN BIOTERRORISM.—In addition to the education or training specified in subsection (a), each recipient of a fellowship under this section (in this section referred to as a ''fellow'') may take courses of study at the Centers for Disease Control and Prevention or at an equivalent facility on diagnosis and containment of likely bioterrorism agents.

(c) FELLOWSHIP AGREEMENT.—

(1) IN GENERAL.—In awarding a fellowship under the program, the Secretary, in consultation with the Secretary of Health and Human Services, shall require the recipient to enter into an agreement under which, in exchange for such assistance, the recipient—

(A) will maintain satisfactory academic progress (as determined in accordance with regulations issued by the Secretary and confirmed in regularly scheduled updates to the Secretary from the institution providing the education or training on the progress of the recipient's education or training);

(B) will, upon completion of such education or training, return to the recipient's country of nationality or last habitual residence (so long as it is an eligible developing country) and complete at least four years of employment in a public health position in the government or a nongovernmental, not-for-profit entity in that country or, with the approval of the Secretary, complete part or all of this requirement through service with an international health organization without geographic restriction; and

(C) agrees that, if the recipient is unable to meet the requirements described in subparagraph (A) or (B), the recipient will reimburse the United States for the value of the assistance provided to the recipient under the fellowship, together with interest at a rate determined in accordance with regulations issued by the Secretary but not higher than the rate generally applied in connection with other Federal loans.

(2) WAIVERS.—The Secretary may waive the application of paragraph (1)(B) and (1)(C) if the Secretary determines that it is in the national interest of the United States to do so.

(d) IMPLEMENTATION.—The Secretary, in consultation with the Secretary of Health and Human Services, is authorized to enter into an agreement with any eligible developing country under which the country agrees—

(1) to establish a procedure for the nomination of eligible nationals for fellowships under this section;

(2) to guarantee that a fellow will be offered a professional public health position within the country upon completion of his studies; and

(3) to certify to the Secretary when a fellow has concluded the minimum period of employment in a public health position required by the fellowship agreement, with an explanation of how the requirement was met.

(e) PARTICIPATION OF UNITED STATES CITIZENS.—On a case-by-case basis, the Secretary may provide for the participation of United States citizens under the provisions of this section if the Secretary determines that it is in the national interest of the United States to do so. Upon completion of such education or training, a United States recipient shall complete at least 5 years of employment in a public health position in an eligible developing country or an international health organization.

SEC. 2407. IN-COUNTRY TRAINING IN LABORATORY TECHNIQUES AND SYNDROME SURVEILLANCE.

(a) IN GENERAL.—In conjunction with the Centers for Disease Control and Prevention and the Department of Defense, the Secretary shall, subject to the availability of appropriations, support short training courses in-country (not in the United States) for laboratory technicians and other public health personnel from eligible developing countries in laboratory techniques relating to the identification, diagnosis, and tracking of pathogens responsible for possible infectious disease outbreaks. Training under this section may be conducted in overseas facilities of the Centers for Disease Control and Prevention or in Overseas Medical Research Units of the Department of Defense, as appropriate. The Secretary shall coordinate such training courses, where appropriate, with the existing programs and activities of the World Health Organization.

(b) TRAINING IN SYNDROME SURVEILLANCE.—In conjunction with the Centers for Disease Control and Prevention and the Department of Defense, the Secretary shall, subject to the availability of appropriations, establish and support short training courses in-country (not in the United States) for public health personnel from eligible developing countries in techniques of syndrome surveillance reporting and rapid analysis of syndrome information using Geographic Information System (GIS) and other Internet-based tools. Training under this subsection may be conducted via the Internet or in appropriate facilities as determined by the Secretary. The Secretary shall coordinate such training courses, where appropriate, with the existing programs and activities of the World Health Organization.

SEC. 2408. ASSISTANCE FOR THE PURCHASE AND MAINTENANCE OF PUBLIC HEALTH LABORATORY EQUIPMENT.

(a) AUTHORIZATION.—The President is authorized, on such terms and conditions as the President may determine, to furnish assistance to eligible developing countries to purchase and maintain public health laboratory equipment described in subsection (b).

(b) EQUIPMENT COVERED.—Equipment described in this subsection is equipment that is—

(1) appropriate, where possible, for use in the intended geographic area;

(2) necessary to collect, analyze, and identify expeditiously a broad array of pathogens, including mutant strains, which may cause disease outbreaks or may be used as a biological weapon;

(3) compatible with general standards set forth, as appropriate, by the World Health Organization and the Centers for Disease Control and Prevention, to ensure interoperability with regional and international public health networks; and

(4) not defense articles or defense services as those terms are defined under section 47 of the Arms Export Control Act (22 U.S.C. 2794).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) (or successor statutes).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of equipment that, if made in the United States, would be subject to the Arms Export Control Act (22 U.S.C. 2751 et seq.) or likely be barred or subject to special conditions under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) (or successor statutes).

(e) HOST COUNTRY'S COMMITMENTS.—The assistance provided under this section shall be contingent upon the host country's commitment to provide the resources, infrastructure, and other assets required to house, maintain, support, secure, and maximize use of this equipment and appropriate technical personnel.

SEC. 2409. ASSISTANCE FOR IMPROVED COMMUNICATION OF PUBLIC HEALTH INFORMATION.

(a) ASSISTANCE FOR PURCHASE OF COMMUNICATION EQUIPMENT AND INFORMATION TECHNOLOGY.—The President is authorized to provide, on such terms and conditions as the President may determine, assistance to eligible developing countries for the purchase and maintenance of communications equipment and information technology described in subsection (b), and supporting equipment, necessary to effectively collect, analyze, and transmit public health information.

(b) COVERED EQUIPMENT.—Equipment (and information technology) described in this subsection is equipment that—

(1) is suitable for use under the particular conditions of the area of intended use;

(2) meets appropriate World Health Organization standards to ensure interoperability with like equipment of other countries and international health organizations; and

(3) is not defense articles or defense services as those terms are defined under section 47 of the Arms Export Control Act (22 U.S.C. 2794).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) (or successor statutes).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of equipment that, if made in the United States, would be subject to the Arms Export Control Act or likely be barred or subject to special conditions under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) (or successor statutes).

(e) ASSISTANCE FOR STANDARDIZATION OF REPORTING.—The President is authorized to provide, on such terms and conditions as the President may determine, technical assistance and grant assistance to international health organizations to facilitate standardization in the reporting of public health information between and among developing countries and international health organizations.

(f) HOST COUNTRY'S COMMITMENTS.—The assistance provided under this section shall be contingent upon the host country's commitment to provide the resources, infrastructure, and other assets required to house, support, maintain, secure, and maximize use of this equipment and appropriate technical personnel.

SEC. 2410. ASSIGNMENT OF PUBLIC HEALTH PERSONNEL TO UNITED STATES MISSIONS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Upon the request of a United States chief of diplomatic mission or an international health organization, and with the concurrence of the Secretary of State, the head of a Federal agency may assign to the respective United States mission or organization any officer or employee of the agency occupying a public health position within the agency for the purpose of enhancing disease and pathogen surveillance efforts in developing countries.

(b) REIMBURSEMENT.—The costs incurred by a Federal agency by reason of the detail of personnel under subsection (a) may be reimbursed to that agency out of the applicable appropriations account of the Department of State if the Secretary determines that the relevant agency may otherwise be unable to assign such personnel on a non-reimbursable basis.

SEC. 2411. EXPANSION OF CERTAIN UNITED STATES GOVERNMENT LABORATORIES ABROAD.

(a) IN GENERAL.—Subject to the availability of appropriations, the Centers for Disease Control and Prevention and the Department of Defense shall each—

(1) increase the number of personnel assigned to laboratories of the Centers or the Department, as appropriate, located in eligible developing countries that conduct research and other activities with respect to infectious diseases; and

(2) expand the operations of those laboratories, especially with respect to the implementation of on-site training of foreign nationals and regional outreach efforts involving neighboring countries.

(b) COOPERATION AND COORDINATION BETWEEN LABORATORIES.—Subsection (a) shall be carried out in such a manner as to foster cooperation and avoid duplication between and among laboratories.

(c) RELATION TO CORE MISSIONS AND SECURITY.—The expansion of the operations of overseas laboratories of the Centers or the Department under this section shall not—

(1) detract from the established core missions of the laboratories; or

(2) compromise the security of those laboratories, as well as their research, equipment, expertise, and materials.

SEC. 2412. ASSISTANCE FOR REGIONAL HEALTH NETWORKS AND EXPANSION OF FOREIGN EPIDEMIOLOGY TRAINING PROGRAMS.

(a) AUTHORITY.—The President is authorized, on such terms and conditions as the President may determine, to provide assistance for the purposes of—

(1) enhancing the surveillance and reporting capabilities of the World Health Organization and existing regional health networks; and

(2) developing new regional health networks.

(b) EXPANSION OF FOREIGN EPIDEMIOLOGY TRAINING PROGRAMS.—The Secretary of Health and Human Services is authorized to establish new country or regional Foreign Epidemiology Training Programs in eligible developing countries.

SEC. 2413. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under this division for Nonproliferation, Anti-terrorism, Demining and Related Programs, there is authorized to be appropriated $35,000,000 for the fiscal year 2004 to carry out this title.

(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

(A) $25,000,000 for the fiscal year 2004 is authorized to be available to carry out sections 2406, 2407, 2408, and 2409;

(B) $500,000 for the fiscal year 2004 is authorized to be available to carry out section 2410;

(C) $2,500,000 for the fiscal year 2004 is authorized to be available to carry out section 2411; and

(D) $7,000,000 for the fiscal year 2004 is authorized to be available to carry out section 2412.

(b) AVAILABILITY OF FUNDS.—The amount appropriated pursuant to subsection (a) is authorized to remain available until expended.

(c) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this title, the Secretary shall submit a report, in conjunction with the Secretary of Health and Human Services and the Secretary of Defense, containing—

(1) a description of the implementation of programs under this title; and

(2) an estimate of the level of funding required to carry out those programs at a sufficient level.

TITLE XXV—REPORTING REQUIREMENTS AND OTHER MATTERS

Subtitle A—Elimination and Modification of Certain Reporting Requirements

SEC. 2501. ANNUAL REPORT ON TERRITORIAL INTEGRITY.

Section 560 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (titles I through V of Public Law 103–87; 107 Stat. 966) is amended by striking subsection (g).

SEC. 2502. ANNUAL REPORTS ON ACTIVITIES IN COLOMBIA.

Section 694 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1415; 22 U.S.C. 2291 note) is amended by adding at the end the following:

''(c) REPORT CONSOLIDATION.—The Secretary may satisfy the annual reporting requirements of this section by incorporating the required information with the annual report submitted pursuant to section 489(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h(a)).''.

SEC. 2503. ANNUAL REPORT ON FOREIGN MILITARY TRAINING.

Subsection (a)(1) of section 656 of the Foreign Assistance Act of 1961 (22 U.S.C. 2416) is amended by striking ''January 31'' and inserting ''March 1''.

SEC. 2504. REPORT ON HUMAN RIGHTS IN HAITI.

Section 616(c) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (section 101(b) of division A of Public Law 105–277; 112 Stat. 2681–114), is amended—

(1) in paragraph (2), by striking ''not later than 3 months after the date of enactment of this Act'' and inserting ''as part of the annual report submitted under paragraph (4) of this subsection''; and

(2) in paragraph (3), by inserting '', as part of the annual report submitted under paragraph (4) of this subsection,'' after ''the appropriate congressional committees''.

Subtitle B—Other Matters

SEC. 2511. CERTAIN CLAIMS FOR EXPROPRIATION BY THE GOVERNMENT OF NICARAGUA.

Section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 475; 22 U.S.C. 2370a) is amended by adding at the end the following new subsection:

''(i) CERTAIN CLAIMS FOR EXPROPRIATION BY THE GOVERNMENT OF NICARAGUA.—

''(1) MATTERS NOT TO BE CONSIDERED.—Any action described in subsection (a)(1) that was taken by the Government of Nicaragua during the period beginning on January 1, 1956, and ending on January 9, 2002, may not be considered in implementing the prohibition under subsection (a) unless the action has been presented in accordance with the procedure set forth in paragraph (2).

''(2) ACTIONS PRESENTED.—An action shall be deemed presented for purposes of paragraph (1) if, not later than 120 days after the date prescribed under paragraph (3), a written description of the action is—

''(A) submitted to the Secretary of State by a United States person; and

''(B) received by the Department of State at—

''(i) the headquarters of the Department of State in Washington, District of Columbia; or

''(ii) the Embassy of the United States of America to Nicaragua.

''(3) TIME FOR PRESENTATION.—The Secretary of State shall prescribe the date on which the presentation deadline is based for the purposes of paragraph (2) and shall publish a notice of such date in the Federal Register. The prescribed date may be any date selected by the Secretary in the Secretary's sole discretion, except that such date may not be the date on which this subsection takes effect or any date before such effective date.''.

SEC. 2512. AMENDMENTS TO THE ARMS CONTROL AND DISARMAMENT ACT.

(a) VERIFICATION OF COMPLIANCE.—Section 306(a) of the Arms Control and Disarmament Act (22 U.S.C. 2577(a)) is amended by inserting ''or other formal commitment'' after ''agreement'' each place it appears in paragraphs (1) and (2).

(b) ANNUAL REPORTS TO CONGRESS.—

(1) REQUIREMENT FOR REPORTS.—Section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a) is amended to read as follows:

''SEC. 403. (a) REPORT ON OBJECTIVES AND NEGOTIATIONS.—Not later than April 15 of each year, the President shall submit to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate a report prepared by the Secretary of State in consultation with the Secretary of Defense, the Secretary of Energy, the Director of Central Intelligence, and the Chairman of the Joint Chiefs of Staff on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament. Such report shall include—

''(1) a detailed statement concerning the arms control, nonproliferation, and disarmament objectives of the executive branch of Government for the forthcoming year; and

''(2) a detailed assessment of the status of any ongoing arms control, nonproliferation, or disarmament negotiations, including a comprehensive description of negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year.

''(b) REPORT ON COMPLIANCE.—Not later than April 15 of each year, the President shall submit to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate a report prepared by the Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with the Secretary of Defense, the Secretary of Energy, and the Chairman of the Joint Chiefs of Staff on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament compliance. Such report shall include—

''(1) a detailed assessment of adherence of the United States to obligations undertaken in arms control, nonproliferation, and disarmament agreements, including information on the policies and organization of each relevant agency or department of the United States to ensure adherence to such obligations, a description of national security programs with a direct bearing on questions of adherence to such obligations and of steps being taken to ensure adherence, and a compilation of any substantive questions raised during the preceding year and any corrective action taken;

''(2) a detailed assessment of the adherence of other nations to obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments, including the Missile Technology Control Regime, to which the United States is a participating state, including information on actions taken by each nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control, nonproliferation, or disarmament agreements or commitments, and shall include, in the case of each agreement or commitment about which compliance questions exist—

''(A) a description of each significant issue raised and efforts made and contemplated with the other participating state to seek resolution of the difficulty;

''(B) an assessment of damage, if any, to the United States security and other interests;

''(C) recommendations as to any steps that should be considered to redress any damage to United States national security and to reduce compliance problems; and

''(D) for states that are not parties to such agreements or commitments, a description of activities of concern carried out by such states and efforts underway to bring such states into adherence with such agreements or commitments;

''(3) a discussion of any material noncompliance by foreign governments with their binding commitments to the United States with respect to the prevention of the spread of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 6305(4)) by non-nuclear-weapon states (as defined in section 830(5) of that Act (22 U.S.C. 6305(5)) or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 830(8) of that Act (22 U.S.C. 6305(8)), including—

''(A) a net assessment of the aggregate military significance of all such violations;

''(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

''(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with those commitments; and

''(4) a specific identification, to the maximum extent practicable in unclassified form, of each and every question that exists with respect to compliance by other countries with arms control, nonproliferation, and disarmament agreements and other formal commitments with the United States.

''(c) CHEMICAL WEAPONS CONVENTION COMPLIANCE REPORT REQUIREMENT SATISFIED.—The report submitted pursuant to subsection (b) shall include the information necessary to satisfy Condition 10(C) of the resolution of advice and consent to the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103–21), approved by the Senate on April 24, 1997.

''(d) CLASSIFICATION OF REPORT.—The reports required by this section shall be submitted in unclassified form, with classified annexes, as appropriate. The report portions described in paragraphs (2) and (3) of subsection (b) shall summarize in detail, at least in classified annexes, the information, analysis, and conclusions relevant to possible noncompliance by other nations that are provided by United States intelligence agencies.

''(e) REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to the Congress under subsection (b) reports that any nation is not in full compliance with its binding nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.

''(f) ADDITIONAL REQUIREMENT.—Each report required by subsection (b) shall include a discussion of each significant issue described in subsection (b)(4) that was contained in a previous report issued under this section during 1995, or after December 31, 1995, until the question or concern has been resolved and such resolution has been reported in detail to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.''.

(2) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

''ANNUAL REPORTS TO CONGRESS''.

SEC. 2513. SUPPORT FOR SIERRA LEONE.

(a) FINDINGS.—Congress makes the following findings:

(1) As of January 1, 2003, the United States had provided a total of $516,000,000 to the United Nations Mission in Sierra Leone and to Operation Focus Relief for the purpose of bringing peace and stability to Sierra Leone.

(2) In fiscal year 2003, Congress appropriated $144,850,000 to support the United Nations Mission in Sierra Leone, and the President has requested $84,000,000 for fiscal year 2004 to support such Mission.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the considerable United States investment in stability in Sierra Leone should be secured through appropriate support for activities aimed at enhancing Sierra Leone's long-term prospect for peaceful development.

(c) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the United States Agency for International Development shall submit a report to the appropriate congressional committees on the feasibility of establishing a United States mission in Sierra Leone.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, 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.

(d) AVAILABILITY OF FUNDS.—Of the amounts made available under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or chapter 4 of part II of such Act (22 U.S.C. 2346 et seq.), up to $15,000,000 may be made available in fiscal year 2004 to support in Sierra Leone programs—

(1) to increase access to primary and secondary education in rural areas;

(2) designed to alleviate poverty; and

(3) to eliminate government corruption.

SEC. 2514. SUPPORT FOR INDEPENDENT MEDIA IN ETHIOPIA.

Of the amounts made available under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), such sums as are necessary may be made available in fiscal year 2004 to support independent media in Ethiopia, including providing support to—

(1) strengthen the capacity of journalists; and

(2) increase access to printing facilities by individuals who work in the print media.

SEC. 2515. SUPPORT FOR SOMALIA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should work—

(A) to support efforts to strengthen state capacity in Somalia;

(B) to curtail opportunities for terrorists and other international criminals in Somalia;

(C) to engage sectors of Somali society that are working to improve the conditions of the Somali people; and

(D) to provide alternatives to extremist influences in Somalia by vigorously pursuing small-scale human development initiatives; and

(2) supporting stability in Somalia is in the national interest of the United States.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the strategy for engaging with pockets of competence within the borders of Somalia to both strengthen local capacity and to establish incentives for other communities to seek stability.

(2) CONTENT.—The report shall—

(A) outline a multi-year strategy for increasing—

(i) access to primary and secondary education and basic health care services, including projected staffing and resource needs in light of Somalia's current capacity;

(ii) support for the efforts underway to establish clear systems for effective regulation and monitoring of Somali remittance companies; and

(iii) support initiatives to rehabilitate Somalia's livestock export sector; and

(B) evaluate the feasibility of using the Ambassador's Fund for Cultural Preservation to support Somalia's cultural heritage, including the oral traditions of the Somali people.

SEC. 2516. SUPPORT FOR CENTRAL AFRICAN STATES.

(a) FINDINGS.—Congress makes the following findings:

(1) In recent years, the Central African States of Burundi, the Democratic Republic of the Congo, Rwanda, and Uganda have all been involved in overlapping conflicts that have destabilized the region and contributed to the deaths of millions of civilians.

(2) The Department of State's 2002 Country Report on Human Rights Practices in Burundi states that, ''impunity for those who committed serious human rights violations, and the continuing lack of accountability for those who committed past abuses, remained key factors in the country's continuing instability.''

(3) The Department of State's 2002 Country Report on Human Rights Practices in the Democratic Republic of the Congo states that, ''the judiciary continued to be underfunded, inefficient, and corrupt. It largely was ineffective as a deterrent to human rights abuses or as a corrective force.''

(4) The Department of State's 2002 Country Report on Human Rights Practices in Rwanda states that ''there were credible reports that Rwandan Defense Force units operating in the [Democratic Republic of the Congo] committed deliberate unlawful killings and other serious abuses, and impunity remained a problem,'' and that ''the Government continued to conduct genocide trials at a slow pace.''

(5) The Department of State's 2002 Country Report on Human Rights Practices in Uganda states that ''security forces used excessive force, at times resulting in death, and committed or failed to prevent extrajudicial killings of suspected rebels and civilians. The Government enacted measures to improve the discipline and training of security forces and punished some security force officials who were guilty of abuses; however, abuses by the security forces remained a problem.''

(6) Ongoing human rights abuses in the Democratic Republic of the Congo, including ethnically-based conflict in Ituri province, threaten the integrity and viability of the Congolese peace process.

(b) STATEMENT OF POLICY.—It is the policy of the United States Government to support—

(1) efforts aimed at accounting for the grave human rights abuses and crimes against humanity that have taken place throughout the central African region since 1993;

(2) programs to encourage reconciliation in communities affected by such crimes; and

(3) efforts aimed at preventing such crimes in the future.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on the actions taken by the United States Government to implement the policy set out in subsection (b).

(d) AUTHORIZATION.—Of the amounts made available under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.), up to $12,000,000 may be made available for fiscal year 2004 to support the development of responsible justice and reconciliation mechanisms in the Democratic Republic of the Congo, Rwanda, Burundi, and Uganda, including programs to increase awareness of gender-based violence and to improve local capacity to prevent and respond to such violence.

(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, 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.

SEC. 2517. AFRICAN CONTINGENCY OPERATIONS TRAINING AND ASSISTANCE PROGRAM.

(a) AVAILABILITY OF FUNDS.—Of the amounts made available under chapter 6 of part II of the Foreign Assistance Act of 1961 (22 U.S.C 2348 et seq.), $15,000,000 may be made available in fiscal year 2004 to support the African Contingency Operations Training and Assistance program (in this section referred to as ''ACOTA'') to enhance the capacity of African militaries to participate in peace support operations.

(b) ELIGIBILITY FOR PARTICIPATION.—

(1) CRITERIA.—Countries receiving ACOTA support shall be selected on the basis of—

(A) the country's willingness to participate in peace support operations;

(B) the country's military capability;

(C) the country's democratic governance;

(D) the nature of the relations between the civil and military authorities within the country;

(E) the human rights record of the country, with particular attention paid to the record of the military; and

(F) the relations between the country and its neighboring states.

(2) ELIGIBILITY REVIEW.—The eligibility status of participating countries shall be reviewed at least annually.

(c) SENSE OF CONGRESS ON LOCAL CONSULTATIONS.—It is the sense of Congress that the Department of State should—

(1) provide information about the nature and purpose of ACOTA training to nationals of a country participating in ACOTA, including parliamentarians and nongovernmental humanitarian and human rights organizations; and

(2) to the extent possible, provide such information prior to the beginning of ACOTA training activities in such country.

(d) SENSE OF CONGRESS ON MONITORING.—It is the sense of Congress that—

(1) the Department of State and other relevant departments and agencies should monitor the performance and conduct of military units that receive ACOTA training or support; and

(2) the Department of State should provide to the appropriate congressional committees an annual report on the information gained through such monitoring.

(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, 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.

SEC. 2518. CONDITION ON THE PROVISION OF CERTAIN FUNDS TO INDONESIA.

(a) CONDITION ON ASSISTANCE.—Subject to subsection (c), no funds made available under section 23 of the Arms Export Control Act (22 U.S.C. 2763) or chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) in fiscal year 2004, other than funds made available for expanded military education and training under such chapter, may be available for a program that involves the Government of Indonesia or the Indonesian Armed Forces until the President makes the certification described in subsection (b).

(b) CERTIFICATION.—The certification referred to in subsection (a) is a certification submitted by the President to the appropriate congressional committees that the Government of Indonesia and the Indonesian Armed Forces are taking effective measures, including cooperating with the Director of the Federal Bureau of Investigation—

(1) to conduct a full investigation of the attack on United States citizens in West Papua, Indonesia on August 31, 2002; and

(2) to criminally prosecute the individuals responsible for such attack.

(c) LIMITATION.—Nothing in this section shall prohibit the United States Government from continuing to conduct programs or training with the Indonesian Armed Forces, including counter-terrorism training, officer visits, port visits, or educational exchanges that are being conducted on the date of the enactment of this Act.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, 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.

SEC. 2519. ASSISTANCE TO COMBAT HIV/AIDS IN CERTAIN COUNTRIES OF THE CARIBBEAN REGION.

Section 1(f)(2)(B)(ii)(VII) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(f)(2)(B)(ii)(VII)) is amended by inserting after ''Zambia,'' the following: ''Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, Suriname, Trinidad and Tobago, Dominican Republic,''.

SEC. 2520. REPEAL OF OBSOLETE ASSISTANCE AUTHORITY.

Sections 495 through 495K of the Foreign Assistance Act of 1961 (22 U.S.C. 2292f through 2292q) are repealed.

SEC. 2521. TECHNICAL CORRECTIONS.

(a) ERROR IN ENROLLMENT.—Effective as of November 21, 1990, as if included therein, section 10(a)(1) of Public Law 101–623 (104 Stat. 3356), relating to an amendment of section 610(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2360(a)), is amended by striking '''part I''' and inserting '''part I)'''.

(b) REDESIGNATION OF DUPLICATIVELY NUMBERED SECTION.—Section 620G of the Foreign Assistance Act of 1961, as added by section 149 of Public Law 104–164 (110 Stat. 1436; 22 U.S.C. 2378a), is redesignated as section 620J.

(c) CORRECTION OF SHORT TITLE.—Effective as of September 30, 1961, as if included therein, section 111 of Public Law 87–329 (75 Stat. 719; 22 U.S.C. 2151 note) is amended by striking '''The Foreign'' and inserting ''the 'Foreign''.

DIVISION C—MILLENNIUM CHALLENGE ASSISTANCE

SEC. 3001. SHORT TITLE.

This division may be cited as the ''Millennium Challenge Act of 2003''.

SEC. 3002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) On March 14, 2002, President George W. Bush stated that ''America supports the international development goals in the U.N. Millennium Declaration, and believes that the goals are a shared responsibility of developed and developing countries.'' The President also called for a ''new compact for global development, defined by new accountability for both rich and poor nations'' and pledged support for increased assistance from the United States through the establishment of a Millennium Challenge Account for countries that govern justly, invest in their own people, and encourage economic freedom.

(2) The elimination of extreme poverty and the achievement of the other international development goals of the United Nations Millennium Declaration adopted by the United Nations General Assembly on September 8, 2000, are important objectives and it is appropriate for the United States to make development assistance available in a manner that will assist in achieving such goals.

(3) The availability of financial assistance through a Millennium Challenge Account,

linked to performance by developing countries, can contribute significantly to the achievement of the international development goals of the United Nations Millennium Declaration.

(b) PURPOSES.—The purposes of this division are—

(1) to provide United States assistance for global development through the Millennium Challenge Corporation, as described in section 3102; and

(2) to provide such assistance in a manner that promotes economic growth and the elimination of extreme poverty and strengthens good governance, economic freedom, and investments in people.

SEC. 3003. DEFINITIONS.

In this division:

(1) BOARD.—The term ''Board'' means the Millennium Challenge Board established by section 3101(c).

(2) CANDIDATE COUNTRY.—The term ''candidate country'' means a country that meets the criteria set out in section 3103.

(3) CEO.—The term ''CEO'' means the chief executive officer of the Corporation established by section 3101(b).

(4) CORPORATION.—The term ''Corporation'' means the Millennium Challenge Corporation established by section 3101(a).

(5) ELIGIBLE COUNTRY.—The term ''eligible country'' means a candidate country that is determined, under section 3104, as being eligible to receive assistance under this division.

(6) MILLENNIUM CHALLENGE ACCOUNT.—The term ''Millennium Challenge Account'' means the account established under section 3301.

TITLE XXXI—MILLENNIUM CHALLENGE ASSISTANCE

SEC. 3101. ESTABLISHMENT AND MANAGEMENT OF THE MILLENNIUM CHALLENGE CORPORATION.

(a) ESTABLISHMENT OF THE CORPORATION.—There is established in the executive branch a corporation within the meaning of section 103 of title 5, United States Code, to be known as the Millennium Challenge Corporation with the powers and authorities described in title XXXII.

(b) CEO OF THE CORPORATION.—

(1) IN GENERAL.—There shall be a chief executive officer of the Corporation who shall be responsible for the management of the Corporation.

(2) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, the CEO.

(3) RELATIONSHIP TO THE SECRETARY OF STATE.—The CEO shall report to and be under the direct authority and foreign policy guidance of the Secretary of State. The Secretary of State shall coordinate the provision of United States foreign assistance.

(4) DUTIES.—The CEO shall, in consultation with the Board, direct the performance of all functions and the exercise of all powers of the Corporation, including ensuring that assistance under this division is coordinated with other United States economic assistance programs.

(5) EXECUTIVE LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Chief Executive Officer, Millennium Challenge Corporation.''.

(c) MILLENNIUM CHALLENGE BOARD.—

(1) ESTABLISHMENT OF THE BOARD.—There is established a Millennium Challenge Board.

(2) COMPOSITION.—The Board shall be composed of the following members:

(A) The Secretary of State, who shall serve as the Chair of the Board.

(B) The Secretary of the Treasury.

(C) The Administrator of the United States Agency for International Development.

(D) The CEO.

(E) The United States Trade Representative.

(2) FUNCTIONS OF THE BOARD.—The Board shall perform the functions specified to be carried out by the Board in this division.

SEC. 3102. AUTHORIZATION FOR MILLENNIUM CHALLENGE ASSISTANCE.

(a) AUTHORITY.—The Corporation is authorized to provide assistance to an eligible entity consistent with the purposes of this division set out in section 3002(b) to conduct programs or projects consistent with the objectives of a Millennium Challenge Contract. Assistance provided under this division may be provided notwithstanding any other provision of law.

(b) EXCEPTION.—Assistance under this division may not be used for military assistance or training.

(c) FORM OF ASSISTANCE.—Assistance under this division may be provided in the form of grants to eligible entities.

(d) COORDINATION.—The provision of assistance under this division shall be coordinated with other United States foreign assistance programs.

(e) APPLICATIONS.—An eligible entity seeking assistance under this division to conduct programs or projects consistent with the objectives of a Millennium Challenge Contract shall submit a proposal for the use of such assistance to the Board in such manner and accompanied by such information as the Board may reasonably require.

SEC. 3103. CANDIDATE COUNTRY.

(a) IN GENERAL.—A country is a candidate country for the purposes of this division—

(1) during fiscal year 2004, if such country is eligible to receive loans from the International Development Association;

(2) during fiscal year 2005, if the per capita income of such country is less than the historical per capita income cutoff of the International Development Association for that year; and

(3) during any fiscal year after 2005—

(A) for which more than $5,000,000,000 has been appropriated to the Millennium Challenge Account, if the country is classified as a lower middle income country by the World Bank on the first day of such fiscal year; or

(B) for which not more than $5,000,000,000 has been appropriated to such Millennium Challenge Account, the per capita income of such country is less than the historical per capita income cutoff of the International Development Association for that year.

(b) LIMITATION ON ASSISTANCE TO CERTAIN CANDIDATE COUNTRIES.—In a fiscal year in which subparagraph (A) of subsection (a)(3) applies with respect to determining candidate countries, not more than 20 percent of the amounts appropriated to the Millennium Challenge Account shall be available for assistance to countries that would not be candidate countries if subparagraph (B) of subsection (a)(3) applied during such year.

SEC. 3104. ELIGIBLE COUNTRY.

(a) DETERMINATION BY THE BOARD.—The Board shall determine whether a candidate country is an eligible country by evaluating the demonstrated commitment of the government of the candidate country to—

(1) just and democratic governance, including a demonstrated commitment to—

(A) promote political pluralism and the rule of law;

(B) respect human and civil rights;

(C) protect private property rights;

(D) encourage transparency and accountability of government; and

(E) limit corruption;

(2) economic freedom, including a demonstrated commitment to economic policies that—

(A) encourage citizens and firms to participate in global trade and international capital markets;

(B) promote private sector growth; and

(C) strengthen market forces in the economy; and

(3) investments in the people of such country, including improving the availability of educational opportunities and health care for all citizens of such country.

(b) ASSESSING ELIGIBILITY.—

(1) IN GENERAL.—To evaluate the demonstrated commitment of a candidate country for the purposes of subsection (a), the CEO shall recommend objective and quantifiable indicators, to be approved by the Board, of a candidate country's performance with respect to the criteria described in paragraphs (1), (2), and (3) of such subsection. Such indicators shall be used in selecting eligible countries.

(2) ANNUAL PUBLICATION OF INDICATORS.—

(A) INITIAL PUBLICATION.—Not later than 45 days prior to the final publication of indicators under subparagraph (B) in any year, the Board shall publish in the Federal Register and make available on the Internet the indicators that the Board proposes to use for the purposes of paragraph (1) in such year.

(B) FINAL PUBLICATION.—Not later than 15 days prior to the selection of eligible countries in any year, the Board shall publish in the Federal Register and make available on the Internet the indicators that are to be used for the purposes of paragraph (1) in such year.

(3) CONSIDERATION OF PUBLIC COMMENT.—The Board shall consider any comments on the proposed indicators published under paragraph (2)(A) that are received within 30 days after the publication of such indicators when selecting the indicators to be used for the purposes of paragraph (1).

SEC. 3105. ELIGIBLE ENTITY.

(a) ASSISTANCE.—Any eligible entity may receive assistance under this division to carry out a project in an eligible country for the purpose of making progress toward achieving an objective of a Millennium Challenge Contract.

(b) DETERMINATIONS OF ELIGIBILITY.—The Board shall determine whether a person or governmental entity is an eligible entity for the purposes of this section.

(c) ELIGIBLE ENTITIES.—For the purposes of this section, an eligible entity is—

(1) a government, including a local or regional government; or

(2) a nongovernmental organization or other private entity.

SEC. 3106. MILLENNIUM CHALLENGE CONTRACT.

(a) IN GENERAL.—The Board shall invite the government of an eligible country to enter into a Millennium Challenge Contract with the Corporation. A Millennium Challenge Contract shall establish a multiyear plan for the eligible country to achieve specific objectives consistent with the purposes set out in section 3002(b).

(b) CONTENT.—A Millennium Challenge Contract shall include—

(1) specific objectives to be achieved by the eligible country during the term of the Contract;

(2) a description of the actions to be taken by the government of the eligible country and the United States Government for achieving such objectives;

(3) the role and contribution of private entities, nongovernmental organizations, and other organizations in achieving such objectives;

(4) a description of beneficiaries, to the extent possible disaggregated by gender;

(5) regular benchmarks for measuring progress toward achieving such objectives;

(6) a schedule for achieving such objectives;

(7) a schedule of evaluations to be performed to determine whether the country is

meeting its commitments under the Contract;

(8) a statement that the Corporation intends to consider the eligible country's performance in achieving such objectives in making decisions about providing continued assistance under the Contract;

(9) the strategy of the eligible country to sustain progress made toward achieving such objectives after the expiration of the Contract;

(10) a plan to ensure financial accountability for any assistance provided to a person or government in the eligible country under this division; and

(11) a statement that nothing in the Contract may be construed to create a legally binding or enforceable obligation on the United States Government or on the Corporation.

(c) REQUIREMENT FOR CONSULTATION.—The Corporation shall seek to ensure that the government of an eligible country consults with private entities and nongovernmental organizations in the eligible country for the purpose of ensuring that the terms of a Millennium Challenge Contract entered into by the Corporation and the eligible country—

(1) reflect the needs of the rural and urban poor in the eligible country; and

(2) provide means to assist poor men and women in the eligible country to escape poverty through their own efforts.

(d) REQUIREMENT FOR APPROVAL BY THE BOARD.—A Millennium Challenge Contract shall be approved by the Board before the Corporation enters into the Contract.

SEC. 3107. SUSPENSION OF ASSISTANCE TO AN ELIGIBLE COUNTRY.

The Secretary of State shall direct the CEO to suspend the provision of assistance to an eligible country under a Millennium Challenge Contract during any period for which such eligible country is ineligible to receive assistance under a provision of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).

SEC. 3108. DISCLOSURE.

(a) REQUIREMENT FOR DISCLOSURE.—The Corporation shall make available to the public on a continuous basis and on the earliest possible date, but not later than 15 days after the information is available to the Corporation, the following information:

(1) A list of the candidate countries determined to be eligible countries during any year.

(2) The text of each Millennium Challenge Contract entered into by the Corporation.

(3) For assistance provided under this division—

(A) the name of each entity to which assistance is provided;

(B) the amount of assistance provided to the entity; and

(C) a description of the program or project for which assistance was provided.

(4) For each eligible country, an assessment of—

(A) the progress made during each year by an eligible country toward achieving the objectives set out in the Millennium Challenge Contract entered into by the eligible country; and

(B) the extent to which assistance provided under this division has been effective in helping the eligible country to achieve such objectives.

(b) DISSEMINATION.—The information required to be disclosed under subsection (a) shall be made available to the public by means of publication in the Federal Register and posting on the Internet, as well as by any other methods that the Board determines appropriate.

SEC. 3109. MILLENNIUM CHALLENGE ASSISTANCE TO CANDIDATE COUNTRIES.

(a) AUTHORITY.—Notwithstanding any other provision of this division and subject to the limitation in subsection (c), the Corporation is authorized to provide assistance to a candidate country that meets the conditions in subsection (b) for the purpose of assisting such country to become an eligible country.

(b) CONDITIONS.—Assistance under subsection (a) may be provided to a candidate country that is not an eligible country under section 3104 because of—

(1) the unreliability of data used to assess its eligibility under section 3104; or

(2) the failure of the government of the candidate country to perform adequately with respect to only 1 of the indicators described in subsection (a) of section 3104.

(c) LIMITATION.—The total amount of assistance provided under subsection (a) in a fiscal year may not exceed 10 percent of the funds made available to the Millennium Challenge Account during such fiscal year.

SEC. 3110. ANNUAL REPORT TO CONGRESS.

Not later than January 31 of each year, the President shall submit to Congress a report on the assistance provided under this division during the prior fiscal year. The report shall include—

(1) information regarding obligations and expenditures for assistance provided to each eligible country in the prior fiscal year;

(2) a discussion, for each eligible country, of the objectives of such assistance;

(3) a description of the coordination of assistance under this division with other United States foreign assistance and related trade policies;

(4) a description of the coordination of assistance under this division with the contributions of other donors; and

(5) any other information the President considers relevant to assistance provided under this division.

TITLE XXXII—POWERS AND AUTHORITIES OF THE MILLENNIUM CHALLENGE CORPORATION

SEC. 3201. POWERS OF THE CORPORATION.

(a) POWERS.—The Corporation—

(1) shall have perpetual succession unless dissolved by an Act of Congress;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may prescribe, amend, and repeal such rules, regulations, and procedures as may be necessary for carrying out the functions of the Corporation;

(4) may make and perform such contracts, grants, and other agreements with any person or government however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation;

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation;

(6) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Corporation;

(7) may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, for the purpose of carrying out the provisions of this division;

(8) may use the United States mails in the same manner and on the same conditions as the executive departments of Government;

(9) may contract with individuals for personal services, who shall not be considered Federal employees for any provision of law administered by the Office of Personnel Management;

(10) may hire or obtain passenger motor vehicles; and

(11) shall have such other powers as may be necessary and incident to carrying out this division.

(b) CONTRACTING AUTHORITY.—The functions and powers authorized by this division may be performed without regard to any provision of law regulating the making, performance, amendment, or modification of contracts, grants, and other agreements.

SEC. 3202. COORDINATION WITH USAID.

(a) REQUIREMENT FOR COORDINATION.—An employee of the Corporation assigned to a United States diplomatic mission or consular post or a United States Agency for International Development field mission in a foreign country shall, in a manner that is consistent with the authority of the Chief of Mission, coordinate the performance of the functions of the Corporation in such country with the officer in charge of the United States Agency of International Development programs located in such country.

(b) USAID PROGRAMS.—The Administrator of the United States Agency for International Development shall seek to ensure that appropriate programs of the Agency play a primary role in preparing candidate countries to become eligible countries under section 3104.

SEC. 3203. PRINCIPAL OFFICE.

The Corporation shall maintain its principal office in the metropolitan area of Washington, District of Columbia.

SEC. 3204. PERSONNEL AUTHORITIES.

(a) REQUIREMENT TO PRESCRIBE A HUMAN RESOURCES MANAGEMENT SYSTEM.—The CEO shall, jointly with the Director of the Office of Personnel Management, prescribe regulations that establish a human resources management system, including a retirement benefits program, for the Corporation.

(b) RELATIONSHIP TO OTHER LAWS.—

(1) INAPPLICABILITY OF CERTAIN LAWS.—Except as provided in paragraph (2), the provisions of title 5, United States Code, and of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) shall not apply to the human resource management program established pursuant to paragraph (1).

(2) APPLICATION OF CERTAIN LAWS.—The human resources management system established pursuant to subsection (a) may not waive, modify, or otherwise affect the application to employees of the Corporation of the following provisions:

(A) Section 2301 of title 5, United States Code.

(B) Section 2302(b) of such title.

(C) Chapter 63 of such title (relating to leave).

(D) Chapter 72 of such title (relating to antidiscrimination).

(E) Chapter 73 of such title (relating to suitability, security, and conduct).

(F) Chapter 81 of such title (relating to compensation for work injuries).

(G) Chapter 85 of such title (relating to unemployment compensation).

(H) Chapter 87 of such title (relating to life insurance).

(I) Chapter 89 of such title (relating to health insurance).

(J) Chapter 90 of such title (relating to long-term care insurance).

(3) RELATIONSHIP TO RETIREMENT BENEFITS LAWS.—The retirement benefits program referred to in subsection (a) shall permit the employees of the Corporation to be eligible, unless the CEO determines otherwise, for benefits under—

(A) subchapter III of chapter 83 and chapter 84 of title 5, United States Code (relating to retirement benefits); or

(B) chapter 8 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.) (relating to the Foreign Service Retirement and Disability System).

(c) APPOINTMENT AND TERMINATION.—Except as otherwise provided in this section, the CEO may, without regard to any civil

service or Foreign Service law or regulation, appoint and terminate employees as may be necessary to enable the Corporation to perform its duties.

(d) COMPENSATION.—

(1) AUTHORITY TO FIX COMPENSATION.—Subject to the provisions of paragraph (2), the CEO may fix the compensation of employees of the Corporation.

(2) LIMITATIONS ON COMPENSATION.—The compensation for an employee of the Corporation may not exceed the lesser of—

(A) the rate of compensation established under title 5, United States Code, or any Foreign Service law for an employee of the Federal Government who holds a position that is comparable to the position held by the employee of the Corporation; or

(B) the rate of pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(e) TERM OF EMPLOYMENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no individual may be employed by the Corporation for a total period of employment that exceeds 5 years.

(2) EXCEPTED POSITIONS.—The CEO, and not more than 3 other employees of the Corporation who are designated by the CEO, may be employed by the Corporation for an unlimited period of employment.

(3) WAIVER.—The CEO may waive the maximum term of employment described in paragraph (1) if the CEO determines that such waiver is essential to the achievement of the purposes of this division.

(f) AUTHORITY FOR TEMPORARY EMPLOYEES.—The CEO may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(g) DETAIL OF FEDERAL EMPLOYEES TO THE CORPORATION.—Any Federal Government employee may be detailed to the Corporation on a fully or partially reimbursable or on a nonreimbursable basis, and such detail shall be without interruption or loss of civil service or Foreign Service status or privilege.

(h) REINSTATEMENT.—An employee of the Federal Government serving under a career or career conditional appointment, or the equivalent, in a Federal agency who transfers to or converts to an appointment in the Corporation with the consent of the head of the agency is entitled to be returned to the employee's former position or a position of like seniority, status, and pay without grade or pay reduction in the agency if the employee—

(1) is being separated from the Corporation for reasons other than misconduct, neglect of duty, or malfeasance; and

(2) applies for return to the agency not later than 30 days before the date of the termination of the employment in the Corporation.

SEC. 3205. PERSONNEL OUTSIDE THE UNITED STATES.

(a) ASSIGNMENT TO UNITED STATES EMBASSIES.—An employee of the Corporation, including an individual detailed to or contracted by the Corporation, may be assigned to a United States diplomatic mission or consular post or a United States Agency for International Development field mission.

(b) PRIVILEGES AND IMMUNITIES.—The Secretary of State shall seek to ensure that an employee of the Corporation, including an individual detailed to or contracted by the Corporation, and the members of the family of such employee, while the employee is performing duties in any country or place outside the United States, enjoy the privileges and immunities that are enjoyed by a member of the Foreign Service, or the family of a member of the Foreign Service, as appropriate, of comparable rank and salary of such employee, if such employee or a member of the family of such employee is not a national of or permanently resident in such country or place.

(c) RESPONSIBILITY OF CHIEF OF MISSION.—An employee of the Corporation, including an individual detailed to or contracted by the Corporation, and a member of the family of such employee, shall be subject to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) in the same manner as United States Government employees while the employee is performing duties in any country or place outside the United States if such employee or member of the family of such employee is not a national of or permanently resident in such country or place.

SEC. 3206. USE OF SERVICES OF OTHER AGENCIES.

The Corporation may utilize the information services, facilities and personnel of, or procure commodities from, any agency of the United States Government on a fully or partially reimbursable or nonreimbursable basis under such terms and conditions as may be agreed to by the head of such agency and the Corporation for carrying out this division.

SEC. 3207. ADMINISTRATIVE AUTHORITIES.

The Corporation is authorized to use any of the administrative authorities contained in the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) and the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) unless such authority is inconsistent with a provision of this division.

SEC. 3208. APPLICABILITY OF CHAPTER 91 OF TITLE 31, UNITED STATES CODE.

The Corporation shall be subject to chapter 91 of title 31, United States Code.

TITLE XXXIII—THE MILLENNIUM CHALLENGE ACCOUNT AND AUTHORIZATION OF APPROPRIATIONS

SEC. 3301. ESTABLISHMENT OF THE MILLENNIUM CHALLENGE ACCOUNT.

There is established on the books of the Treasury an account to be known as the Millennium Challenge Account that shall be administered by the CEO under the direction of the Board. All amounts made available to carry out the provisions of this division shall be deposited into such Account and such amounts shall be available to carry out such provisions.

SEC. 3302. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of this division $1,000,000,000 for fiscal year 2004, $2,300,000,000 for fiscal year 2005, and $5,000,000,000 for fiscal year 2006.

(b) AVAILABILITY.—Funds appropriated under subsection (a)—

(1) are authorized to remain available until expended, subject to appropriations acts; and

(2) are in addition to funds otherwise available for such purposes.

(c) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Corporation may allocate or transfer to any agency of the United States Government any of the funds available for carrying out this division. Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this division or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(2) NOTIFICATION.—The notification requirements of section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1(a)) shall apply to any allocation or transfer of funds made pursuant to paragraph (1).

SA 1137. Mr. SANTORIUM submitted an amendment intended to be proposed to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.___. TECHNICAL CORRECTION RELATING TO THE ENHANCED HIPC INITIATIVE.

Section 1625(a)(1)(B)(ii) of the International Financial Institutions Act (as added by section 501 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108-25)) is amended by striking ''subparagraph (A)'' and inserting ''clause (i)''.

SA 1138. Mr. BROWNBACK proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal year 2004 through 2007, and for other purposes; as follows:

At the end of title VII, add the following:

SEC. ___. TREATMENT OF NATIONALS OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA.

For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

SA 1139. Mr. LUGAR (for himself and Mr. BIDEN) proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; as follows:

Strike section 204.

In section 207, strike ''agency'' and insert ''agency, except that funds may be transferred by the Secretary for the procurement of goods and services from other departments or agencies pursuant to section 1535 of title 31, United States Code''.

In section 402(a), strike ''90 days'' and insert ''120 days''.

In section 501(a), strike paragraph (3) and insert the following:

(3) by adding at the end the following:

''(C) OTHER REVIEW OF DESIGNATION.—

''(i) IN GENERAL.—If in a 4-year period no review has taken place under subparagraph (B), the Secretary shall review the designation of the foreign terrorist organization in order to determine whether such designation should be revoked pursuant to paragraph (6). Such review shall be completed not later than 180 days after the end of such 4-year period

''(ii) PROCEDURES.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

''(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish any determination made pursuant to this subparagraph in the Federal Register.''.

Strike section 601, and insert the following:

SEC. 601. PLANS, REPORTS, AND BUDGET DOCUMENTS.

(a) REQUIREMENTS UNDER THE UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE ACT OF 1948.—

(1) REQUIREMENTS.—Section 502 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1462) is amended to read as follows:

''SEC. 502. (a) INTERNATIONAL INFORMATION STRATEGY.—The President shall develop and report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives an international information strategy. The international information strategy shall consist of public information plans designed for major regions of the world, including a focus on regions with significant Muslim populations.

''(b) NATIONAL SECURITY STRATEGY.—In the preparation of the annual report required by section 108 of the National Security Act of 1947 (50 U.S.C. 404a), the President shall ensure that the report includes a comprehensive discussion of how public diplomacy activities are integrated into the national security strategy of the United States, and how such activities are designed to advance the goals and objectives identified in the report pursuant to section 108(b)(1) of that Act.

''(c) PLANS REGARDING DEPARTMENT ACTIVITIES.—

''(1) STRATEGIC PLAN.—In the updated and revised strategic plan for program activities of the Department required to be submitted under section 306 of title 5, United States Code, the Secretary shall identify how public diplomacy activities of the Department are designed to advance each strategic goal identified in the plan.

''(2) ANNUAL PERFORMANCE PLAN.—The Secretary shall ensure that each annual performance plan for the Department required by section 1115 of title 31, United States Code, includes a detailed discussion of public diplomacy activities of the Department.

''(3) BUREAU AND MISSION PERFORMANCE PLAN.—The Secretary shall ensure that each regional bureau's performance plan, and other bureau performance plans as appropriate, and each mission performance plan, under regulations of the Department, includes a public diplomacy component.''.

(2) CONFORMING AMENDMENT.—The heading for such section is amended to read as follows:

''PLANS, REPORTS, AND BUDGET DOCUMENTS''.

(b) DEADLINE FOR REPORTING INTERNATIONAL INFORMATION STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall report to the appropriate congressional committees the international information strategy described in subsection (a) of section 502 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1462), as amended by subsection (a).

In section 602, strike the heading and insert the following:

SEC. 602. TRAINING.

In section 612(b)(1), strike ''binational Fulbright commissions'' and insert ''such program''.

In section 612(b)(10), strike subparagraphs (A) and (B) and insert the following:

(A) bilateral exchanges to train athletes or teams;

(B) bilateral exchanges to assist countries in establishing or improving their sports, health, or physical education programs;

In section 613(b), strike paragraph (2) and insert the following:

(2) is at least 15 years of age but not more than 18 years and 6 months of age at the time of enrollment in the program;

In section 622, strike subsection (a) and insert the following:

(a) ESTABLISHMENT.—There is established a fellowship program under to which the Broadcasting Board of Governors may provide fellowships to foreign national journalists while they serve, for a period not to exceed 6 months, in positions at the Voice of America, RFE/RL, Incorporated, or Radio Free Asia.

In section 623, strike subsection (b) and insert the following:

(b) REMUNERATION.—The Board shall determine the amount of remuneration a Fellow will receive for service under this subtitle. In making the determination, the Board shall take into consideration the position in which the Fellow will serve, the Fellow's experience and expertise, and other sources of funds available to the Fellow.

SA 1140. Mr. BINGAMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of division B, insert the following:

SEC. . ALLOWANCE OF DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

''SEC. 179D. DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or a provider of electric energy services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

''(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any meter or metering device which is used by the taxpayer—

''(1) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

''(2) to provide such data on at least a monthly basis to both consumers and the taxpayer.

''(d) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(e) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this subtitle, if a deduction is allowed under this section with respect to a qualified energy management device, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(f) TERMINATION.—This section shall not apply to any qualified energy management device placed in service after December 31, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting '', or'', and by inserting after subparagraph (J) the following new subparagraph:

''(K) expenditures for which a deduction is allowed under section 179D.''.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179C'' each place it appears in the heading and text and inserting ''179C, or 179D''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting '', and'', and by adding at the end the following new paragraph:

''(35) to the extent provided in section 179D(e)(1).''.

(4) Section 1245(a), as amended by this Act, is amended by inserting ''179D,'' after ''179C,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179C the following new item:

''Sec. 179D. Deduction for qualified energy management devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified energy management devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 1141. Mrs. BOXER (for herself, Mr. CHAFEE, Ms. MIKULSKI, Mrs. MURRAY, Ms. SNOWE, Mr. BIDEN, Mrs. CLINTON, and Mr. LAUTENBERG) proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, insert the following new section:

SEC. 815. GLOBAL DEMOCRACY PROMOTION.

(a) FINDINGS.—Congress makes the following findings:

(1) It is a fundamental principle of American medical ethics and practice that health care providers should, at all times, deal honestly and openly with patients. Any attempt to subvert the private and sensitive physician-patient relationship would be intolerable in the United States and is an unjustifiable intrusion into the practices of health care providers when attempted in other countries.

(2) Freedom of speech is a fundamental American value. The ability to exercise the right to free speech, which includes the ''right of the people peaceably to assemble, and to petition the government for a redress of grievances'' is essential to a thriving democracy and is protected under the United States Constitution.

(3) The promotion of democracy is a principal goal of United States foreign policy and critical to achieving sustainable development. It is enhanced through the encouragement of democratic institutions and the promotion of an independent and politically active civil society in developing countries.

(4) Limiting eligibility for United States development and humanitarian assistance upon the willingness of a foreign nongovernmental organization to forgo its right to use its own funds to address, within the democratic process, a particular issue affecting the citizens of its own country directly undermines a key goal of United States foreign policy and would violate the United States Constitution if applied to United States-based organizations.

(5) Similarly, limiting the eligibility for United States assistance on a foreign nongovernmental organization's willingness to forgo its right to provide, with its own funds, medical services that are legal in its own country and would be legal if provided in the United States constitutes unjustifiable interference with the ability of independent organizations to serve the critical health needs of their fellow citizens and demonstrates a disregard and disrespect for the laws of sovereign nations as well as for the laws of the United States.

(b) ASSISTANCE FOR FOREIGN NONGOVERNMENTAL ORGANIZATIONS UNDER PART I OF THE FOREIGN ASSISTANCE ACT OF 1961.—Notwithstanding any other provision of law, regulation, or policy, in determining eligibility for assistance authorized under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), foreign nongovernmental organizations—

(1) shall not be ineligible for such assistance solely on the basis of health or medical services including counseling and referral services, provided by such organizations with non-United States Government funds if such services do not violate the laws of the country in which they are being provided and would not violate United States Federal law if provided in the United States; and

(2) shall not be subject to requirements relating to the use of non-United States Government funds for advocacy and lobbying activities other than those that apply to United States nongovernmental organizations receiving assistance under part I of such Act.

SA 1142. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike lines 17 through 19 and insert the following:

(5) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For ''Protection of Foreign Missions and Officials'', $21,000,000 for the fiscal year 2004, and $55,900,000 to be available for expenses related to protection of foreign missions and officials incurred prior to October 1, 2003.

SA 1143. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title XXI, add the following new section:

SEC. 2113. REAUTHORIZATION OF RELIEF FOR TORTURE VICTIMS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN TREATMENT CENTERS FOR VICTIMS OF TORTURE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 4(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended to read as follows:

''(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal year 2004 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) there is authorized to be appropriated to the President to carry out section 130 of such Act $11,000,000 for fiscal year 2004.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2003.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES CONTRIBUTION TO THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.—Of the amounts authorized to be appropriated for fiscal year 2004 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2221 et seq.), there is authorized to be appropriated to the President for a voluntary contribution to the United Nations Voluntary Fund for Victims of Torture $6,000,000 for fiscal year 2004.

(c) AUTHORIZATION OF APPROPRIATIONS FOR DOMESTIC TREATMENT CENTERS FOR VICTIMS OF TORTURE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 5(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended to read as follows:

''(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal year 2004, there is authorized to be appropriated to carry out subsection (a) $20,000,000 for fiscal year 2004.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2003.

SA 1144. Mr. ALLEN (for himself, Mr. ALEXANDER, Mr. GRAHAM of South Carolina, and Mr. BIDEN) proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 214. COMBATTING PIRACY OF UNITED STATES COPYRIGHTED MATERIALS.

(a) PROGRAM AUTHORIZED.—The Secretary may carry out a program of activities to combat piracy in countries that are not members of the Organization for Economic Cooperation and Development (OECD), including activities as follows:

(1) The provision of equipment and training for law enforcement, including in the interpretation of intellectual property laws.

(2) The provisionof training for judges and prosecutors, including in the interpretation of intellectual property laws.

(3) The provision of assistance in complying with obligations under applicable international treaties and agreements on copyright and intellectual property.

(b) DISCHARGE THROUGH BUREAU OF ECONOMIC AFFAIRS.—The Secretary shall carry out the program authorized by subsection (a) through the Bureau of Economic Affairs of the Department.

(c) CONSULTATION WITH WORLD INTELLECTUAL PROPERTY ORGANIZATION.—In carrying out the program authorized by subsection (a), the Secretary shall, to the maximum extent practicable, consult with and provide assistance to the World Intellectual Property Organization in order to promote the integration of countries described in subsection (a) into the global intellectual property system.

(d) FUNDING.—Of the amount authorized to be appropriated for other educational and cultural exchange programs by section 102(a)(1)(B), $5,000,000 may be available in fiscal year 2004 for the program authorized by subsection (a).

SA 1145. Mr. BROWNBACK proposed an amendment to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; as follows:

At the appropriate place in the amendment insert the following:

SEC. . IRAN DEMOCRACY ACT.

(a) FINDINGS.—The Congress finds the following:

(1) Iran is neither free nor democratic. Men and women are not treated equally, in Iran. Women are legally deprived of internationally recognized human rights, and religious freedom is not respected under the laws of Iran. Undemocratic institutions, such as the Guardians Council, thwart the decisions of elected leaders.

(2) The April 2003 report of the Department of State states that Iran remained the most active state sponsor of terrorism in 2002.

(3) That report also states that Iran continues to provide funding, safe-haven, training, and weapons to known terrorist groups, notably Hizballah, HAMAS, the Palestine Islamic Jihad, and the Popular Front for the Liberation of Palestine.

(b) POLICY.—It is the policy of the United States that—

(1) currently, there is not a free and fully democratic government in Iran,

(2) the United States supports transparent, full democracy in Iran,

(3) the United States supports the rights of the Iranian people to choose their system of government; and

(4) the United States condemns the brutal treatment, imprisonment and torture of Iranian civilians expressing political dissent.

SA 1146. Mr. SMITH (for himself, Mr. BIDEN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII add the following:

SEC. 815. ELIGIBILITY OF CERTAIN COUNTRIES FOR UNITED STATES MILITARY ASSISTANCE.

(a) FINDINGS.—Congress makes the following findings:

(1) On May 8, 2003, the Senate voted 96 to 0 to approve the resolution of advice and consent to the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia (T.Doc. 108–4).

(2) It is in the interest of the United States, the North Atlantic Treaty Organization (NATO), and the 7 countries that concluded the Protocols that these countries be treated in the same manner as the 18 allies of the United States that are member countries of NATO as of the date of the enactment of this Act.

(b) AMENDMENT OF AMERICAN SERVICEMEMBERS' PROTECTION ACT OF 2002.—Section 2007(d)(1) of the American Servicemembers' Protection Act of 2002 (title II of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (Public Law 107–206; 116 Stat. 905)) is amended by inserting ''or a country that has concluded a protocol with NATO for the accession of the country to NATO'' before the semicolon.

SA 1147. Mr. BROWNBACK (for himself, Mr. KENNEDY, Mr. LAUTENBERG, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 1136 proposed by Mr. LUGAR to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 214. ENHANCING REFUGEE RESETTLEMENT TO ENSURE NATIONAL SECURITY AND MAINTAIN THE UNITED STATES COMMITMENT TO REFUGEES.

(a) FINDINGS.—Congress finds the following:

(1) The United States has a longstanding tradition of providing refugee assistance and relief through the Department of State's migration and refugee assistance account for refugees throughout the world who have been subjected to religious and other forms of persecution.

(2) A strong refugee resettlement and assistance program is a critical component of the United States' strong commitment to freedom.

(3) The United States refugee admissions program has been in decline for much of the last 5 years, resulting in a chronic inability of the United States to meet the ceiling on refugee admissions that has been set by the President each year.

(4) Refugee applicants have always undergone rigorous security screenings. The September 11, 2001, terrorist attacks on the United States have rightfully increased the awareness of the need to ensure that all aliens seeking admission to the United States would not endanger the United States. In order to ensure that the refugee admissions program remains available in a timely way to deserving and qualified refugee applicants, all personnel involved in screening such applicants should closely coordinate their work in order to ensure both the timely and complete screening of such applicants.

(5) Private voluntary agencies have and continue to provide valuable information to State Department officials for refugee processing, and along with Embassy personnel, can be utilized to assist in the preliminary screening of refugees so that State Department officials can focus to a greater extent on security.

(6) In order to meet the ceiling set by the Administration, which has been 70,000 refugees in recent years, a broader cross-section of the world's 15,000,000 refugees could be considered for resettlement in the United States if the Department of State were to expand existing refugee processing priority categories in a reasonable and responsible manner. Expansion of refugee selection should include the expanded use of both the existing category reserved for refugees of special interest to the United States as well as the existing categories reserved for family reunification.

(b) PURPOSE.—It is the purpose of this section to provide the Department of State with tools to enable it to carry out its responsibilities with greater efficiency with respect to the identification and processing of refugee applicants.

(c) SENSE OF CONGRESS CONCERNING ANNUAL ADMISSION OF REFUGEES.—It is the sense of Congress that—

(1) efforts of the Department of State to admit 70,000 refugees, as allocated through presidential determinations, for fiscal year 2003 are strongly supported and recommended; and

(2) the Administration should seek to admit at least 90,000 refugees in fiscal year 2004 and at least 100,000 in fiscal year 2005.

(d) REFUGEE SECURITY COORDINATOR.—

(1) ESTABLISHMENT.—In order to further enhance overseas security screening of the United States Refugee Resettlement Program, there shall be within the Bureau of Population, Refugees, and Migration, a Refugee Security Coordinator who shall report to the Assistant Secretary of State for Population, Refugees, and Migration.

(2) RESPONSIBILITIES.—The Refugee Security Coordinator referred to in paragraph (1) shall be responsible for—

(A) ensuring that applicants for admission to the United States undergo a security review to ensure that the admission of such applicants would not pose a security risk to the United States;

(B) ensuring that, to the greatest extent practicable, such security reviews are completed within 45 days of the submission of the information necessary to conduct such a review;

(C) providing appropriate officials in the Department of Justice and the Department of Homeland Security pertinent information for conducting security reviews for applicants; and

(D) making recommendations on procedural and personnel changes and levels of appropriations that the Refugee Security Coordinator considers appropriate for the various agencies of government involved in conducting security reviews for refugee applicants in order to ensure that such reviews are complete and accurate, protect the security of the United States, and are completed in a timely manner.

(3) AUTHORITY.—In carrying out the responsibilities set forth in paragraph (2), the Refugee Security Coordinator shall have full authority to work with the various agencies of government to ensure that security reviews are conducted in a complete and timely manner, including authority to inquire about, and require action on, any particular application.

(e) USE OF NONGOVERNMENTAL ORGANIZATIONS IN REFERRAL OF REFUGEES.—

(1) PRIVATE VOLUNTARY ORGANIZATION REFERRALS.—The Secretary of State shall develop and utilize partnerships with private voluntary agencies that permit such agencies to assist in the identification and referral of refugees, through the creation of networks of field-based nongovernmental organizations with immediate and direct knowledge of refugees in need of a durable solution.

(2) USE OF VOLUNTARY AGENCIES IN OVERSEAS REFUGEE PROCESSING.—In processing refugees for admission to the United States, the Department of State shall utilize private voluntary agencies with ties to domestic constituencies.

(3) REFUGEE RESPONSE TEAMS.—

(A) ESTABLISHMENT.—In order to make the processing of refugees more efficient and effective, enhance the quality of refugee resettlement programs, and to augment the capacity of the United States Government to identify, process, assist, and counsel individuals for eventual adjudication by the Department of Homeland Security as refugees, the Secretary of State shall establish and utilize the services of Refugee Response Teams (in this section referred to as ''RRTs''). RRTs shall be coordinated by the Assistant Secretary of State for Population, Refugees, and Migration, or the Assistant Secretary's designee, and work with the Refugee Security Coordinator.

(B) COMPOSITION.—RRTs shall be comprised of representatives of private voluntary organizations that have experience in refugee law, policy, and programs.

(C) RESPONSIBILITIES OF THE RRTS.—RRTs shall be responsible for—

(i) monitoring refugee situations, with a view toward identifying those refugees whose best durable solution is third country resettlement;

(ii) preparing profiles and documentation for resettlement consideration by the United States Government;

(iii) augmenting or establishing an overseas operation, especially in response to urgent developments requiring quick responses or more staff resources than are available in the existing processing entities;

(iv) assisting with training and technical assistance to existing international organizations and other processing entities; and

(v) such other responsibilities as may be determined by the Secretary of State.

(D) RESPONSIBILITIES OF THE SECRETARY.—The Secretary of State shall establish appropriate training seminars for RRT personnel and make use of RRTs in situations where existing mechanisms are unable to identify and process refugees in a timely manner.

(f) PERFORMANCE STANDARDS.—In consultation with private voluntary organizations, the Secretary of State shall establish performance standards to ensure accountability and effectiveness in the tasks carried out in subsection (e).

(g) CONSIDERATION OF VARIOUS GROUPS.—To ensure that there is adequate planning across fiscal years and that both the Department of State's planning and processing operations result in adequate numbers of travel-ready refugees to fulfill the admissions goals set forth in the determinations on refugee admissions required by sections 207(a) and 207(b) of the Immigration and Nationality Act (8 U.S.C. 1157(a) and (b)), the Secretary of State shall work to ensure that—

(1) those refugees in special need, including long-stayers in first countries of asylum, unaccompanied refugee minors, urban refugees, and refugees in women-headed households be given special attention for resettlement processing;

(2) attempts are made to expand processing of those refugees of all nationalities who have close family ties to citizens and residents in the United States, including spouses, unmarried children, or parents of persons lawfully admitted to the United States, regardless of their country of nationality, country of habitual residence, or first country of asylum, as well as grandparents, grandchildren, married sons or daughters, or siblings of United States citizens or other persons lawfully admitted to the United States;

(3) attempts are made to expand the number of refugees considered who are of special concern to the United States;

(4) individuals otherwise eligible for access to the United States refugee admissions program seeking admission to the United States as refugees are not excluded from being interviewed because of such individual's country of nationality, country of habitual residence, or first country of asylum; and

(5) expanded access is provided to broader categories of refugees seeking admission to the United States, thus reducing instances of relationship-based misrepresentation by persons who art bona fide refugees but who resort to such misrepresentation merely as a way to be interviewed for refugee status.

(h) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to Congress that includes information concerning the following:

(1) Efforts of the Refugee Security Coordinator in assuming the responsibilities set forth in subsection (d) that includes—

(A) a description of the process involved in conducting security reviews for refugee applicants;

(B) a listing of the various agencies of the Federal Government that are involved in conducting security reviews for refugee applicants;

(C) a listing for each agency described in accordance with subparagraph (B) of the number of personnel involved in conducting security reviews for refugee applicants;

(D) a listing for each agency described in accordance with subparagraph (B) of the amount of funding in the previous fiscal year for conducting security reviews for refugee applicants;

(E) the average amount of time that it takes to conduct security reviews for refugee applicants; and

(F) a plan on how the Refugee Security Coordinator will fulfill the responsibilities set forth in paragraphs (1), (2), and (3) of subsection (d).

(2) Efforts of the Secretary to utilize private voluntary organizations in refugee identification, utilize private voluntary agencies in processing refugees, and an explanation of the rationale for not using such organizations and agencies in situations where the Secretary of State has made such a determination.

(3) Efforts of the Secretary of State implement performance standards and measures are described in subsection (f) and the success of private voluntary organizations in meeting such standards.

(4) Efforts of the Secretary of State to expand consideration of various groups for refugee processing as described in subsection (g).

(5) Efforts to ensure that there is planning across fiscal years so as to fulfill the refugee admissions goals set forth by the President in the President's annual presidential determinations on refugee admissions, including efforts to reach at least 70,000 admissions in fiscal year 2003, 90,000 in fiscal year 2004, and 100,000 in fiscal year 2005 as recommended by Congress.

SA 1148. Ms. MURKOWSKI (for herself, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . SENSE OF CONGRESS ON THE ESTABLISHMENT OF AN OIL RESERVE FUND FOR IRAQ.

(a) FINDINGS.—Congress makes the following findings:

(1) Coalition forces have liberated the Iraqi people from the tyranny of Saddam Hussein and his regime.

(2) The vast mineral resources, including oil, of Iraq could enrich the present and future generations of Iraqis.

(3) Iraq has one of the largest known petroleum reserves in the world, and those reserves could be used to foster economic development and democratization in Iraq.

(4) Very little of the potential of the oil sector in Iraq has actually been harnessed.

(5) Under Saddam Hussein's regime, the proceeds from those resources were used to build palaces, enrich the members of the Republican Guard, oppress the Iraqi people, and stifle their desires for a democratic government.

(6) As many of the nations of the Persian Gulf demonstrate, possession of large petroleum reserves alone does not ensure economic development or democratization.

(7) The development of a vibrant democracy requires a strong middle class, a free press, and free and fair elections.

(8) The future Government of Iraq will face a variety of reconstruction challenges ranging from restoring infrastructure to providing basic human services like education and healthcare.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of Energy should develop a proposal for the establishment of an oil reserve fund for Iraq and submit the proposal to appropriate representatives of the Iraqi people, the Director of the Office of Reconstruction and Humanitarian Assistance, and the President's Envoy to Iraq;

(2) the proposal should take proper account of the need of Iraq for funding of reconstruction, meeting its international financial obligations, and providing essential human services such as education and health care;

(3) the fund should be called the Iraqi Freedom Fund and should be based on models such as the Alaska Permanent Fund, as well as other appropriate models;

(4) the fund should be managed on a for-profit basis to produce additional revenues;

(5) a portion of the annual earnings of the fund should be distributed to the Iraqi people as direct payments, or through programs designed to promote the establishment of a permanent middle class, with the remainder of the fund to be capitalized to allow the fund to grow for future generations; and

(6) the goal of the fund should be to encourage maximum participation by the people of Iraq in the operation of their government, to promote the proper use of the natural resources of Iraq, and to ensure that the Iraqi people benefit from the development of the natural resources of Iraq.

SA 1149. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 925, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, between lines 17 and 18, insert the following new section:

SEC. 815. EXTENSION OF NONDISCRIMINATORY TRADE TREATMENT TO SERBIA AND MONTENEGRO.

Notwithstanding Public Law 102–420 (19 U.S.C. 2434 note), the President may proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Serbia and Montenegro (formerly the Federal Republic of Yugoslavia).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, July 9, 2003, at 9:30 a.m., in open/closed session to receive testimony on ''Lessions Learned'' during operation enduring freedom in Afghanistan and Operation Iraqi Freedom, and to receive testimony on ongoing operations in the United States Central Command Region.

The Presiding Officer. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 9, 2003, at 10 a.m., in room 106 of the Dirksen Senate Office Building to conduct an oversight hearing on the Indian Gaming Regulatory Act.

COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Judicial and Executive Nominations'' on Wednesday, July 9, 2003, at 3 p.m., in the Dirksen Senate Office Building room 226.

Panel I: [Senators]

Panel II: James O. Browning to be United States District Judge for the District of New Mexico; Kathleen Cardone to be United States District Judge for the Western District of Texas; James I. Cohn to be United States District Judge for the Southern District of Florida; Frank Montalvo to be United States District Judge for the Western District of Texas; Xavier Rodriguez to be United States District Judge for the Western District of Texas

Panel III: Rene Alexander Acosta to be Assistant Attorney General, Civil Rights Division, United States Department of Justice.

The Presiding Officer. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, July 9, 2003, at 9:30 a.m., to conduct a hearing on Senate Resolution 173, proposing changes in Rule XVI of the Standing Rules of the Senate as they relate to unauthorized appropriations.

The Presiding Officer. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Joint

Economic Committee be authorized to conduct a hearing in room 628 of the Dirksen Senate Office Building, Wednesday, July 9, 2003, from 9:30 a.m. to 1 p.m.

The Presiding Officer. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. LUGAR. I ask unanimous consent the following persons and fellows detailed to the Foreign Relations Committee be granted the privilege of the floor during the consideration of S. 925: Paul Foldi, Michael Mattler, Jason Hamm, and Peter Gadzinski.

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

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Nicolaas Corneliss, a fellow on my staff, be granted privileges of the floor for the duration of the Congress.

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

Mr. BIDEN. Mr. President, I ask unanimous consent that Perry Cammack, a Javits fellow working on the staff of the Foreign Relations Committee, be granted the privilege of the floor during consideration of S. 925.

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

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Matt Linstroth and Jason Wolf during consideration of the Child Tax Credit legislation.

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

ORDERS FOR THURSDAY, JULY 10, 2003

Mr. LUGAR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, July 10. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 925, the State Department authorization bill.

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

PROGRAM

Mr. LUGAR. Mr. President, for the information of all Senators, tomorrow the Senate will resume debate on S. 925, the State Department authorization bill. During today's session, we were able to dispose of a number of amendments to that measure. We will continue working through amendments tomorrow. I encourage any Member who has an amendment to the bill to contact us so we can organize an orderly schedule for the consideration of amendments.

Rollcall votes will occur throughout the day tomorrow, and Senators will be notified when the first vote is scheduled. As announced by the majority leader, it is our hope to finish action on this bill during Thursday's session.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LUGAR. 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 6:56 p.m., adjourned until Thursday, July 10, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 9, 2003:

THE JUDICIARY

MARY ELLEN COSTER WILLIAMS, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

VICTOR J. WOLSKI, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

SUSAN G. BRADEN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

CHARLES F. LETTOW, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.