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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Campbell Gillon, Pastor Emeritus of Georgetown Presbyterian Church, Washington, DC.

PRAYER

The guest Chaplain offered the following prayer:

Eternal God, we are creatures of a day, yet we thank Thee for touching our lives with eternity, endowing us with insight as well as sight, conscience as well as cleverness, spiritual responsiveness as well as physical reflexes. Forgive us whenever we deny the ''better angels'' of our nature, thus depriving ourselves of divine guidance and help.

We need Thy help now as a nation of nations, peerless in military power and economic potential, that we do not fall into the temptations of overweening superiority or self-centered isolationism. We know from this Republic's foundation, recognizing divine endowments received, that righteousness alone exalts a nation and where this vision is lacking, people cast off restraint and perish. Save us from such an end through corruption of the spirit. Teach us that we are alive for a purpose and that popularity in the world does not necessarily equate with divine approval. May we learn individually and collectively from the words of the old hymn:

Some will hate thee, some will love thee,
Some will flatter, some will slight;
Cease from man, and look above thee:
Trust in God and do the right.

Lord God, we need Thy help daily to discern the right. Knowing how mixed human motives can be, keep this Nation ever facing toward good ends of liberation from oppression, humanitarian help, others' self-determination and lasting peace. In this sinful world, grant wisdom to those creating necessary firebreaks of lesser evil to contain and extinguish the greater, since fervent wishing will not make it so.

Comfort and bless all whose suffering is part of the price of peace. Give grace to this Senate as they make decisions that will affect many, and grasp each opportunity for good afforded by the sacrifices made. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. CHAMBLISS). The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, the Senate will be in a period of morning business today until 10:30 a.m. This is the time set aside for Senators to honor the men and women fighting in Iraq.

Following morning business, the Senate will resume debate on the nomination of Priscilla Owen to be a circuit court judge for the Fifth Circuit. A number of Senators have indicated they are prepared to speak on her nomination, and I hope they will do so during today's session.

As I mentioned yesterday, the Senate has only confirmed two circuit court nominees this year. We have a total of six circuit court nominations pending on the Executive Calendar awaiting Senate action. I will continue to work with the Democratic leader to try to schedule these judicial nominations for a vote at a time certain.

Having said that, it is my hope that later today we will be able to reach a consent agreement to vote on the pending Owen nomination. I hope Members will not object to that agreement once they are given an opportunity to speak during today's session.

The Senate will recess from 12:30 p.m. to 2:15 p.m. for the weekly party lunches.

It is my expectation that the Senate will take up the CARE Act this afternoon under the agreement reached last week. There is an understanding that although we will begin this bill this afternoon, we will not finish the CARE Act until Wednesday morning. In addition, there are a number of other remaining issues that may be addressed this week prior to the April recess, and therefore Senators should expect votes each day of the session.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, from 10:30 until 12:30, is there any need that we, in effect, guard the floor, and that there will be no call for the vote on the Owen nomination this morning?

Mr. FRIST. That would be fine. We do not expect to vote between 10:30 and 12:30.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with time to be equally divided between the Senator from Texas, Mrs. HUTCHISON, and the Democratic leader or his designee.

The Senator from Texas is recognized.

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

HONORING OUR ARMED FORCES

Mrs. HUTCHISON. Mr. President, today I am going to continue what the Senate has been doing since our troops started the invasion of Iraq, and that is to take the first period before we go on to the business of the day to salute the troops who are in the field protecting our freedom.

Today, I want to salute the members of the 507th Maintenance Company. This is the company out of Fort Bliss in El Paso, TX, who really were the first to be captured, the first prisoners of war shown on Iraqi television. Some of them have now been recovered, but there are still five missing.

The rescue of PFC Jessica Lynch was a moment of triumph but also sadness, as the celebration was tempered by the recovery of the remains of fallen soldiers who were later identified as her comrades in arms. General Renuart at CENTCOM described the rescue this way: A special ops soldier called to Private Lynch saying:

Jessica Lynch, we're United States soldiers and we're here to protect you and take you home. . . .

As he walked over to her bed, took his helmet off, she looked up to him and said:

I'm an American soldier, too.

General Renuart also described the recovery of the remains of the soldiers who had been killed because they were told by the same sources that there were remains of other soldiers on the ground outside the hospital where Jessica lay. He said:

At the same time, the team was led to a burial site, where, in fact, they did find a number of bodies that they believed could be Americans missing in action. They did not have shovels in order to dig those graves up, so they dug them up with their hands. And they wanted to do that very rapidly so they could race the sun and be off the site before the sun came up; a great testament to the will and desire of coalition forces to bring their own home.

That one line says all you will ever need to know about the character of the young men and women in the military today, who refuse to leave their fallen comrades behind: They dug them up with their hands, and raced the sun.

On Friday evening, the families of those whose remains were recovered were officially notified that their loved ones had been killed in action. We mourn their loss.

They were PFC Lori Ann Piestewa, the first American woman soldier killed in the Iraq war. This is a picture showing the two friends, PFC Jessica Lynch and PFC Lori Piestewa. They were at Fort Bliss the day of their deployment. They were roommates and friends.

Private First Class Piestewa was a Hopi Indian, one of the few American Indian women serving in the military. She was PFC Jessica Lynch's good friend and roommate.

''Our family is proud of her; she is our hero,'' her brother Wayland said Saturday. ''We are going to hold that in our hearts. She will not be forgotten. It gives us comfort to know that she is at peace right now.''

Behind me are the pictures of some who have died in action, and I am going to speak about each of them.

In Texas, there is a town called Comfort that lived up to its name by embracing and comforting the parents of SP James Kiehl. In Comfort, TX, the parents of SP James M. Kiehl are being comforted by their friends and neighbors. The 6-foot 8-inch soldier was a high school basketball player and a member of the band. The people of Comfort, moved by James' death, created an impromptu memorial where basketballs, flower arrangements, personal notes, and even baseball bats have been left as tributes to James. His father summed up the family's feelings this way:

We just want everyone to know we support the President and the troops, and we believe in what James went over there for.

James Kiehl's wife, Jill, is staying with her parents in Des Moines, IA, and is expecting their first child next month.

In Mobile, AL, Rev. Howard Johnson, Sr., buried his son, Army PFC Howard Johnson, Jr., from the same pulpit of the Truevine Baptist Church where he had stood so many times offering words of comfort to his congregation. Reverend Johnson said of his son:

Howard, you out ran me, but I'll see you in the morning.

SGT Donald Walters of Kansas City, MO, fought in Operation Desert Storm and had followed in his father's footsteps by joining the military. His father, Norman Walters, is an Air Force veteran and said this about his son:

He was a patriotic guy. He felt it was his duty to serve his country.

Sergeant Walters leaves behind a wife and three daughters.

MSG Robert Dowdy and PVT Brandon Sloan were both from Cleveland, OH. Master Sergeant Dowdy's brother-in-law had this to say about the career soldier:

He was ready to accept the challenge. That's the type of person he was. He knew going in what he was in store for and who he was and what he was about.

Private Sloan's father, the Rev. Tandy Sloan, proudly said his son ''was very committed to the cause of country.''

PVT Ruben Estrella-Soto was from El Paso, TX. This is his graduation picture. His father said his son

had a lot of desire to do something with his life, and wanted to go into the military so he could get education.

CWO Johnny Villareal Mata was from Amarillo, TX. He played football on the Pecos High School Eagles football team and graduated in 1986. Soon thereafter he joined the Army. The family remembered him this way:

Our hearts are saddened, and we share the pain with the other families. He will be deeply missed and will never be forgotten.

SP Jamaal Addison of Roswell, GA, is remembered by his step-grandmother as ''a mild-mannered, quiet child'' who attended Bible study every Wednesday night before joining the Army.

The 507th Maintenance Company still has five soldiers who are prisoners of war. They are SP Shoshana Johnson, SP Edgar Hernandez, SP Joseph Hudson, PFC Patrick Miller, and SGT James Riley. I have talked with Claude Johnson, Shoshana's father, several times. He and his wife Eunice are caring for Shoshana's 2-year-old daughter.

These five have not been seen publicly since several hours after they were taken prisoner March 23, and the International Committee of the Red Cross has not yet been able to visit them in captivity. We join all Americans in urging the Iraqi Government to treat those prisoners in accordance with the Geneva Convention, just as we have treated the thousands of Iraqi prisoners we hold.

We pray those prisoners of war from the 507th Maintenance Company will be returned safely to their families. We pay tribute to them today for the sacrifices they have made.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I come to the floor today to pay tribute to our men and women in uniform serving at home and abroad and honor their service to this Nation. Our service men and women have risen to the call in the fight against terrorism. They have risen to the call to ensure peace and stability in the world. And they have risen to the call to provide humanitarian aid to those in need.

One of the great aspects about America is our military. We have a history in our armed services, a rich and deep history of honor and integrity, and we see that firsthand in Operation Iraqi Freedom.

I wish to acknowledge the ultimate sacrifice of two of our servicemen who fell in the line of duty: Hospital Corpsman Michael Vann Johnson, Jr., a 25-year-old Navy medic serving in the 3rd Battalion of the 5th Marine Expeditionary Force. Michael was born in Little Rock where his mother still lives. I talked with her by phone the other day. She is a soldier in her own right.

LCpl Thomas Blair was a 24-year-old marine whose father, Al Blair, resides in Gravette, AR.

They died very bravely, both serving their country and both trying to make life better for mankind. I pray for their families, and I honor them as brave and selfless men who put their lives on the line to make the world safer for others.

I also pray for Iraq and the Iraqi people. I pray that after Saddam Hussein leaves power and that regime ends, the next government in Iraq will be peaceful; that it will not be oppressive of its own people; that it will not be aggressive toward its neighbors; that Iraq will become a solid rock in the Middle East and in that part of the world and a model of stability.

I also honor the service of LCpl James, or as we know him, ''Jason,''

Smedley of the U.S. Marine Corps. Jason was wounded in combat and, by the grace of God, he is returning to us now. When not fighting for his country, he serves in the office of my colleague from Arkansas, Senator BLANCHE LINCOLN, assisting Arkansans. We look forward to having Jason back, around and helping Arkansans in the many ways he does.

Military service is not a job; it is a calling. It takes a special person to pledge to serve their country, risking life and limb in doing so. It takes courage, commitment, and a true sense of self to be prepared to deploy and fight for America.

I have two young children, ages 7 and 9, and I think about the children of our military men and women. I think about the boys and girls whose fathers and mothers are far from home or working long hours in the United States. I want them to know we appreciate the sacrifices they are making, that we admire their valor in keeping their spirits up, and that their parents are doing a job that epitomizes the best in human character.

I pray to God for peace, for world peace, and for the safe return of our troops, and I thank God. I thank God for allowing me to serve the people of this Nation in this way. As a Senator and a member of the Armed Services Committee, I stand ready to work with my colleagues and the President to provide any and all support possible to ensure the success of our military forces conducting these operations.

Our Nation is one of diverse views, diverse ideologies, and diverse opinions. That is one of the aspects that make America great. We might not all agree on how we got to this point; nonetheless, we come together as one country to support the service men and women who are currently risking life and limb for this great Nation. They put themselves in harm's way not for personal aggrandizement or advancement but for immense love of country, liberty, and family.

If they can hear me today, I say be assured that the American people are behind you.

When appearing before the Senate Armed Services Committee a few weeks ago, GEN John Keane, Vice Chief of Staff of the U.S. Army, testified to the courage of our military personnel. He said, when asked what is their greatest challenge, his division commanders replied: Keeping our soldiers from being too brave. They are brave, but we want them to return home.

This is not just for our regular Armed Forces but also for our Reserves and our members of the National Guard. They all play a very key role in maintaining strong national defense. Just as we should thank our military overseas and at home, we should also thank our first responders who protect our hometowns. Firefighters, police, health care personnel, they risk their lives every day and sacrifice precious time with their families every day to keep us safe from those who would try to do us harm. Their commitment and contributions to national security and homeland security should not be forgotten. We all salute their spirit.

I urge all Americans to pray for our troops, their families and our President, as we defend our Nation and the world from those who seek to do us harm.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, as I stand on the floor of the Senate, it is crystal clear that the reign of the dictator of Iraq is quickly coming to an end. In fact, he may already have fallen as a result of yesterday's bombings. There is no question that his death grip around the throats of the Iraqi people is being lifted; his fingers pried by American, British, and other coalition forces at places such as Basra, Mosul, and Baghdad. But the freedom of Iraq has come at a loss, a loss of American, British, and Iraqi lives. I mourn the death of each and every one of our sons and daughters, folks who volunteered to stand in harm's way for freedom and liberties we wish for all people. They are sons and daughters of a great American revolution that never ends. The cause of freedom and liberty never ends.

We see pictures every day of uncommon valor, the soldiers who rescued a young Jessica Lynch from her captors, the young men and women who dashed hundreds of miles from Iraq to the borders of Baghdad to liberate the people of that oppressed nation, or the soldiers—and there was one scene I watched on the news of three soldiers with a reporter. They had enough juice in a cell phone to make one call. One of the soldier's wives was pregnant, but instead of calling their families, they chose to call the parents of a fallen comrade to see how his mom and dad were doing.

There are dozens of pictures of American soldiers comforting the people of Iraq, bringing them food and offering them compassion. These are America's sons and daughters. They are the pictures of America that the world sees today. They are the pictures of America that bring hope to oppressed people of the world. They are SPC Joshua Sams of St. Francis, MN, a paratrooper in the 173rd Airborne Brigade. Following in the boot steps of a military family, Joshua's father was in the Army during the Korean war. Two of his brothers are in the Army now and one is in the National Guard awaiting deployment. Joshua joined the National Guard at the age of 17. After 2 years, he wanted to do more for his country, and Joshua's mom said her son had trained hard for months and was anxious to go to Iraq, was ready to go to Iraq, ready to heed the call of duty. Two weeks ago today, Joshua was among the brave paratroopers who leapt into northern Iraq and remains there today guarding a vital airstrip. Thank you, Joshua, for your service, for your commitment and for your bravery.

I would also like to take a moment to pay tribute to David Bloom, a Minnesotan. Like millions of Americans, I watched the broadcasts of David Bloom of NBC from Iraq, a young man full of promise with a young vibrant family. This dedicated reporter left all of us much too soon. It is a long way from the shady streets of Edina, MN, David Bloom's hometown, to the outskirts of Baghdad. We are heartbroken at the death of David Bloom.

Like every other American, he was there as a volunteer. His job was not to fight but to help tell the world the truth about the courage and integrity of our country, even at war. He turned out to be an outstanding representative of these qualities himself.

Americans have always known that freedom and security come at a terribly high price. It humbles and inspires us all how many are willing to pay it for us. David Bloom made Minnesotans proud and he served his profession and his Nation with great valor. Our prayers and support will be with his spouse and his daughters.

I would like to use the words of some of his colleagues and friends to demonstrate the professionalism and humanism of this wonderful reporter. The following remarks were on MSNBC recently. Tom Brokaw said:

> David was the consummate reporter. He'd land in my office without knocking, slide the chair up to my desk and then begin to suck all the oxygen out of the room asking questions how to cover the story or who should he be contacting. And then, in a flash, he'd be gone.

Tim Russert, one of David's mentors, says:

> He had a sense of decency and civility. He didn't go for the cheap shot. You fuse that with professionalism, and he had something viewers wanted to watch, embrace.

Yes, the sacrifice of our troops and their families must never be forgotten. But we must also remember the outpouring of love back at home and the countless acts of kindness and support on behalf of our fighting men and women. I think of the small Catholic grade school in Hampton, MN, that has just 57 students in the entire school. The schoolchildren came up with a wonderful way to show their affection and appreciation for our troops on the battlefield.

They issued a ''penny challenge'' last week. Each class was given a pail and children were asked to drop pennies, do what they can, even on a small scale to show their support. Administrators were amazed at how much money they raised, more than $1,000 with the money going for care packages to U.S. troops in Iraq. Parents were very supportive as well, but the smallest children were the ones who collected the most money, the kindergartners.

Another show of support came from the magic of television. Believe it or

not, the first pitch of the Minnesota Twins's home opener this week was thrown out from the Middle East by a group of Minnesota soldiers. Josh Tverger, a U.S. Army specialist from Norwood Young America, MN, threw out the first pitch from the Kuwaiti desert. In the Metro Dome, Army SP Greta Lind of Le Sueur, MN, was on the receiving end. It was all accomplished through the spectacular technical satellite links similar to what our military has put to such stunning use on the battlefield, and now on the ballfield.

Yes, there is much love at home. There is also much sadness in many homes and villages of those who have given their lives. We thank them. Our thoughts and prayers are with those who are on the front line today. Our thoughts and prayers are with the families of those who have given the ultimate sacrifice. If we could hug every one of them, moms and dads and sisters and brothers, I would do it and I know the Senator from Georgia would do the same.

They have our love. They have our prayers. They have our thoughts. God bless them all.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Minnesota for a wonderful statement. Certainly, every single life that is lost over there is appreciated and will be appreciated forever in the hearts of Americans because those young men and women are protecting the freedom we enjoy.

David Bloom, a constituent of the Senator from Minnesota, was also protecting our way of life. He was protecting the freedom of the press. He was serving so well to do that. I knew David personally, as most Members did, because he was such a special person and he did his job, worked hard, and was here a lot. We very much miss him and we know so many of his colleagues miss him, as well.

Mr. President, I wish to talk about T.R. Fehrenbach, a constituent of mine, who wrote what many think is the definitive book on the Korean war called ''This Kind of War.'' It is appropriate today. We have been amazed at the technological capability of our military in the war in Iraq. They have launched missiles, dropped bombs, and delivered other ordnance on the battlefield with pinpoint accuracy. I came across a picture today reminiscent of our soldiers from an earlier era that reminds me of some basic truths that apply no matter how much technological capability we might acquire.

I have a picture of American troops from the Army's 101st Airborne Division marching into Bastogne during World War II. This was the counterattack against the Germans. We see the 101st Airborne Division. I have another picture taken last week of the 101st Airborne Division, nearly 60 years later—a column from the First Brigade march into Najaf, Iraq, on Wednesday, April 2, 2003, doing basically the same thing.

These photographs demonstrate an old axiom about military operations that was written by Ted Fehrenbach in ''This Kind of War,'' a book about the Korean war:

> Americans in 1950 rediscovered something that since Hiroshima they had forgotten: You may fly over a land forever; you may bomb it, atomize it, pulverize it and wipe it clean of life—but if you desire to defend it, protect it, and keep it for civilization, you must do this on the ground, the way the Roman legions did, by putting your young men into the mud.

I know Ted Fehrenbach and I know he would have said today, by putting your brave young soldiers and marines in the mud, because what he is saying essentially is the same today as it was in 1950. And that is, if you want to protect a land and keep it for civilization, you must have our young men and women willing to go in on the ground. The truth is still the same today.

I yield the floor.

MORNING BUSINESS CLOSED

The PRESIDING OFFICER (Mr. COLEMAN). Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar 86, which the clerk will report.

The assistant legislative clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Mr. HATCH. I rise today to express my unqualified support for the confirmation of Justice Priscilla Owen to the Fifth Circuit Court of Appeals. Last evening I talked about the importance of this debate and this vote. I talked about this vote as an opportunity to remedy the mistreatment Justice Owen received last September when she was voted down in committee, along party lines, and blocked from receiving a Senate vote. We know she would have been confirmed in the Senate by both Democrat and Republican Members, but unfortunately she was never allowed to make it to that point. I talked about this vote as an opportunity for the Senate to show we can be fair to a well-qualified nominee and provide him or her a simple up-or-down vote.

Finally, I talked about this vote as an opportunity to place a great judge, Justice Owen, on the bench. I convened a hearing for Justice Owen last month because I wanted to provide all of my colleagues an opportunity to ask questions of her and to hear her answers. I want to clear up misstatements and misrepresentations of her record dating back to last year. I was confident Justice Owen would again demonstrate her intelligence and capacity for Federal judicial service. To put it mildly, she certainly did not disappoint. She handled questions with insightful and substantive answers. She was a superb witness, one of the best we have ever had before the Senate Judiciary Committee.

We heard valuable testimony from Senator CORNYN, a new Senator, but no newcomer to Justice Owen's record or the workings of the Judiciary. In fact, he served with Justice Owen on the Texas Supreme Court for a period of 3 years, serving side by side with her. He had been a Texas trial judge before that time. He also served as a Texas State attorney general for the last 3 years. Senator CORNYN answered a frequent criticism leveled at Justice Owen, a criticism that is false, that she is out of the mainstream on her own court. If anyone would know whether Justice Owen, in fact, fits this characterization, Senator CORNYN would know. He worked next to her, heard the very same oral arguments she did, examined and debated the same law and facts with her, and decided the very same cases she did.

There is no doubt, then, Justice Cornyn disagreed with Justice Owen at times. I can reel off a few case names as well as anyone. But the significant thing is that he supports her confirmation despite attempts by some to create division where none exists.

Former Texas Supreme Court Justices John L. Hill, Jack Hightower, and Raul Gonzalez, all Democrats, are united in concurring with Senator CORNYN's opinion calling Justice Owen unbiased and restrained in her decisionmaking and applauding her for her impeccable integrity, for her great character and great scholarship. The diverse and formidable group, made up of 15 former presidents of the Texas State bar, wrote in a letter of support: Although we prefer different party affiliations and span the spectrum of views of legal and policy issues, we stand united in affirming that Justice Owen is a true, unique, and outstanding candidate for the appointment to the Fifth Circuit.

There is no dissent from Hector De Leon, immediate past president of Legal Aid of Central Texas, who applauds Justice Owen's commitment to improving the quality of legal services for the poor, or from Mary Sean O'Reilly, lifelong member of the NAACP, pro-choice Democrat who worked with Justice Owen on gender and family law issues. They are joined in support by E. Thomas Bishop, president of the Texas Association of Defense Counsel, who writes: I cannot imagine a more qualified, ethical, and knowledgeable person to sit on the Fifth Circuit; and William B. Emmons, self-styled Texas trial attorney, Democrat, and ''no friend of Priscilla

Owen''—those are his words—who, nevertheless, said: Justice Owen will serve the Fifth Circuit of the United States exceptionally well.

Those who have been in support of Justice Owen are familiar with her record of service, but it deserves brief review in the Senate. Priscilla Owen is a native of Palacios, Texas, a town located on the southern coast of Texas, grew up in Waco, TX, and attended school there. Following graduation from high school, Justice Owen enrolled in Baylor University where she received a bachelor of arts degree cum laude. She attended Baylor University School of Law with a scholarship, again excelling in studies by achieving cum laude and serving as a member of the law review. She scored the highest score in the State on the Texas bar exam after finishing school, a terrific accomplishment in a State the size of Texas.

Justice Owen worked for the Houston firm Andrews & Kurth as a commercial litigator for 17 years, gaining seasoning in appearances before Texas State and Federal courts and courts elsewhere.

Besides extensive work in oil and gas litigation, she handled securities matters and did work on cases heard by the Texas Railroad Commission. She became a partner with the firm in the mid-1980s.

Priscilla Owen successfully ran for a seat on the Texas Supreme Court in 1994 and was reelected in the year 2000 for another 6-year term. Her reelection run in 2000 was supported by every major Texas newspaper. She won with 84 percent of the popular vote.

Based on this shining record of academic and professional achievement, the American Bar Association awarded Justice Owen a unanimous well-qualified rating. That is after sending representatives into the State, talking to people on all sides of various issues; talking to people on both sides of the political spectrum, both Democrats and Republicans; talking to fellow members of the bar, those who knew her the best. They came up with a unanimously well-qualified rating, the highest rating the American Bar Association can give.

This rating does mean that Justice Owen is at the top of the legal profession in her legal community; that she has outstanding legal ability, breadth of experience, and the highest reputation for integrity, and that she has demonstrated or exhibited the capacity for judicial temperament. Only a few people achieve that select highest rating.

Justice Owen is a member of the prestigious American Law Institute, the American Judicature Society and the American Bar Association, and a Fellow at the Houston and American Bar Associations. She has taken a genuine interest in improving access to justice for the poor while serving on the bench as a liaison to State committees on pro bono and legal services for the indigent. She worked with others to successfully petition the Texas State Legislature to provide better funding for organizations devoted to helping the poor with legal support services.

Earlier, I mentioned a letter of support for Justice Owen, which was sent by Hector De Leon, past President of Legal Aid of Central Texas. Let me just quote a small part of that letter, because it makes the point better than I can, regarding Justice Owen.

> Justice Owen has an understanding of and a commitment to the availability of legal services to those who are disadvantaged and unable to pay for such legal services. It is that type of insight and empathy that Justice Owen will bring to the Fifth Circuit.

Justice Owen is active in her church and respected in her community. She is a mentor to young women attorneys, having made it to the top of the legal profession during a period of time when relatively few women went to law school—fewer were hired by pre-eminent firms—and even fewer are advanced thereafter to partnership. Justice Owen did all three.

As a judge, Justice Owen is an advocate for breaking glass ceilings in the legal field. She has served on the Texas Supreme Court Gender Neutral Task Force, a working group seeking to promote equality for women in the Texas legal system, and addressing problems of gender bias in the profession. And, she served as one of the editors of the Gender Neutral Handbook, a guide made available to all Texas lawyers and judges, and intended to educate and create awareness about gender bias.

If you look at her record, it is hard for me to imagine why my colleagues on the other side of the floor, on the Judiciary Committee, voted against her in any way. I don't see how they could possibly vote against her with the record that she has. But they did. I suspect that politics had a little bit to do with it.

Justice Priscilla Owen is an excellent choice for the Fifth Circuit. There is no doubt that some will pull isolated bits and pieces out of Justice Owen's rich and textured background in an attempt to discredit and diminish her accomplishments and abilities and jurisprudence. There is no doubt some will avoid mentioning the positive aspects of Justice Owen's career, and despite this fact, it bears noting once more that those who know Priscilla Owen best know what a terrific judge she is now and will be on the Federal court.

I have come to know Justice Owen and her record and I agree she has been an excellent State judge, and she promises to be an excellent Federal judge. I ask my distinguished colleagues in the Senate to join me in voting for the confirmation of Justice Priscilla Owen to the Fifth Circuit Court of Appeals, and I certainly hope this great justice is not going to be filibustered, as Miguel Estrada has been.

Nevertheless, we are prepared for whatever happens here. She stands in a unique position as one of the finest women lawyers in the country, one of the finest women justices in the country, and one of the finest people who really has worked so hard for women and women's issues and gender issues who has ever served in any court in this country. It is very difficult for me to see how anybody could vote against her.

I hope we can have this vote, up or down, within a relatively short period of debate. I hope everybody will get to the floor and say what they have to say about Justice Owen, and we will be happy to enter into debate at any time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to say first how much I appreciate Senator HATCH, the chairman of the Judiciary Committee, who has done an incredible job under very trying circumstances on the nomination of Priscilla Owen.

Senator HATCH saw early on what an outstanding person we have in Priscilla Owen, and though on a straight party-line vote she was turned down by the committee last year, and was unable to get to the floor even for a vote this year, with Senator HATCH's leadership she has been able to come out of committee, again on a straight party-line vote. I am very hopeful she will get a fair chance for a floor vote because she is one of the most outstanding people I know.

She has waited 1 year and 11 months. That is when the President first nominated her for the Fifth Circuit Court of Appeals. Priscilla Owen was among the group of 11 judicial nominees announced by President Bush on May 9, 2001. She is the kind of judge the people of the Fifth Circuit need on the bench, an experienced jurist who follows the law and uses good common sense. She has been nominated to a vacancy that has been classified as a judicial emergency and that should be filled expeditiously.

Justice Owen is an 8-year veteran of the Texas Supreme Court. She is highly qualified. She graduated cum laude from Baylor Law School in 1977. Thereafter, she earned the highest score on the Texas bar exam. Before joining the Texas Supreme Court in 1994, she was a partner in a major Texas law firm where she was a commercial litigator for 17 years.

She has used her legal talents to help those in need. She has worked to improve access to legal services for the poor. She fought to increase funding for these programs.

She has also helped organize a group known as Family Law 2000, which seeks to educate parents about the effects of divorce on children, and to lessen the adversarial nature of legal proceedings when a marriage is dissolved.

Justice Owen enjoys broad support. The American Bar Association Standing Committee on the Federal Judiciary has voted her unanimously well

qualified. To merit this ranking, the ABA requires that the nominee must be at the top of the legal profession in his or her legal community, have outstanding legal ability, breadth of experience, the highest reputation for integrity, and either have demonstrated or exhibited the capacity for judicial temperament.

I would say her judicial temperament has been proven in the 1 year 11 months that she has waited for confirmation because the way she has conducted herself has been exemplary. She has been available to meet with any Senator. She has answered every question. She has gone back into records to make sure that she was answering exactly correctly. She has maintained complete silence about this process about which I am sure she has some strong opinions. But I think she has shown her judicial temperament by being very much on an even keel, basically saying: I would love to be on the Fifth Circuit, but I am very happy on the Texas Supreme Court.

Of course, she is well regarded by those who know her best. We do elect judges in Texas. In 2000, Justice Owen was reelected to the Supreme Court with 84 percent of the vote. She was endorsed by every major newspaper in Texas—every one.

The Dallas Morning News called her record one of ''accomplishment and integrity.'' The Houston Chronicle wrote she ''has the proper balance of judicial experience, solid legal scholarship, and real world know-how.''

Despite the fact that she is a well-respected judge who has received high praise, her nomination has been targeted by special interest groups that have mischaracterized her views.

Let me read the words of former elected attorney general and Texas Supreme Court Chief Justice John L. Hill, Jr., a lifelong Democrat, denouncing the false accusations about Priscilla Owen's record by special interest groups.

> Their attacks on Justice Owen in particular are breathtakingly dishonest, ignoring her long-held commitment to reform and grossly distorting her rulings. Tellingly, the groups made no effort to assess whether her decisions are legally sound. . . . I know Texas politics and can clearly say that these assaults on Justice Owen's records are false, misleading, and deliberate distortions.

That is a quote from former chief justice of the Texas Supreme Court, John Hill, elected as a Democrat.

Senator HATCH has taken the extraordinary step of holding a second hearing on Justice Owen in order to get the record straight and because Senator LEAHY, the ranking member, really insisted that she have another hearing. She did so well in those hearings. I watched them after I introduced her. Once again, her evenhandedness and her legal brilliance came through.

One issue that came up during the hearings involves Texas's parental notification statute. I believe Justice Owen has demonstrated that she is a judge who follows and upholds the law, and in this line of cases she has consistently applied Supreme Court precedent to help interpret uncertainty in the statute. The cases in question deal strictly with statutory interpretation of Texas law, not with constitutional rights.

These are not abortion cases. They are issues of parental involvement. They are notification—not consent—laws. Forty-three States have passed some form of parental involvement statute. During two lengthy committee hearings, Justice Owen defended her decisions as consistent with U.S. Supreme Court rulings.

In addition, almost all of the cases that came to the supreme court were cases in which she voted to affirm the district court and the circuit court of appeals rulings. So it would have been highly unusual for the supreme court to overturn the trier of fact and the first appellate court.

I hope my colleagues will see that her methods of statutory interpretation are sound and that she is an exemplary judge.

I urge my colleagues not to filibuster this well-qualified nominee but to give her an up-or-down vote. I hope we will confirm this outstanding supreme court judge from Texas who has waited almost 2 years now for the Fifth Circuit Court of Appeals appointment.

If there were anything in her record against integrity or competence or judicial demeanor, it would be a different case, but that is not the case about Priscilla Owen, whom I know well, whom I have been with on many occasions. I know the people who appear before her court. She is rated outstanding by all who know her, who are giving any kind of an objective view.

I hope this Senate will not do to Priscilla Owen what has happened to another well-qualified nominee, Miguel Estrada, who also has a sterling academic record, who also has a record of integrity and experience. I hope this Senate will not start requiring 60 votes, where the Constitution requires a simple majority for qualified nominees.

Let's have a vote up or down. We do not need a new standard. In fact, if we had a new standard, it should go through the constitutional process. We should have a constitutional amendment that says Supreme Court and circuit court and district court judge nominees will be required to have 60 votes. It would take a constitutional amendment to do that. But Miguel Estrada is being required to have 60 votes. I hope that is not the standard we put on Priscilla Owen.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, today the Senate has begun an extraordinary, actually unprecedented, debate to reconsider the nomination of Priscilla Owen to the United States Court of Appeals for the Fifth Circuit. In the history of the country, there has never been a time when a President has resubmitted a circuit court nominee already rejected by the U.S. Senate Judiciary Committee for the same vacancy. Until 4 weeks ago, never before had the Judiciary Committee rejected its own decision on such a nominee and granted a second hearing. We have a case where the Senate Judiciary Committee, having decided not to give even one hearing to President Clinton's nominees to the Fifth Circuit from Texas, Enrique Moreno and Jorge Rangel, in fact having decided not to give a satisfactory hearing to President Bush's nominees to the DC and Sixth Circuits, John Roberts and Deborah Cook, the committee nonetheless proceeded with another hearing for Justice Owen.

It is unprecedented both in its procedures but also in its political partisanship.

What did we learn in that second hearing? We learned that given some time, Justice Owen was able to enlist the help of the talented lawyers working at the White House and the Department of Justice in their political arm to come up with some new justification for her activism. We learned that given six months to reconsider the severe criticism directed at her by her Republican colleagues, she still admits no error. Mostly, I think we learned that the objections expressed last September were sincerely held then, they are sincerely held now. Nothing Justice Owen amplified about her record—indeed, nothing anyone else tried to explain about her record—actually changed her record.

In September, when we considered this nomination in the committee the first time, I said I was proud the Democrats and some Republicans had kept to the merits of the nomination and chose not to vilify or castigate or unfairly characterize and condemn without basis Senators working conscientiously to fulfill their constitutional responsibility.

After hearing some of the ugly things that were subsequently said at that business meeting, some of the accusations made against my colleagues and those interested citizens across the country who expressed opposition to Justice Owen's nomination, I was sorely disappointed that some in the Senate had not kept solely to the merits.

I continue to believe what Senator FEINSTEIN said that day is true. By doing its job on the nomination, by exercising due diligence, by examining records, by not just rubber stamping every nominee the President sent us, the Judiciary Committee showed itself to be alive and well.

We confirmed the overwhelming majority of the President's judicial nominees, 100 out of 103 considered while I was chairman—incidentally, setting an all-time speed record. We took the time to look at their records. We gave each person who was nominated to this lifetime seat on the Federal bench the scrutiny he or she deserved. We did not have the assembly line which seems to be in overdrive since this last Congress took over.

The rush to judgment on so many of the nominees before us does not change the fact that we fully and fairly considered the nomination of Priscilla Owen last year. The record was sufficient when we voted last year. It did not need any setting straight.

I voted ''no'' the last time this nomination was before us. In sharp contrast to the record of the district court nominee Cormac Carney who was just confirmed by the Senate—he came to us with strong bipartisan support—Justice Priscilla Owen is a nominee whose record is too extreme in the context of the very conservative Texas Supreme Court. Her nomination presents a number of areas of serious concern to me.

The first area is her extremism even among a conservative Supreme Court of Texas. The conservative Republican majority of the Texas Supreme Court has gone out of its way to criticize Justice Owen, the dissents she wrote and the dissents she joined in ways that are highly unusual, and highlight not a law-oriented activism but an ends-oriented activism.

A number of justices on the Texas Supreme Court have pointed out how far from the language of statutes she has strayed in her attempts to legislate from the bench, to go far beyond what the legislature intended.

One example is a majority opinion in a case called Weiner v. Wasson. In this case, Justice Owen wrote a dissent advocating a ruling against a medical malpractice plaintiff, a plaintiff who was injured while he was still a minor. The issue was the constitutionality of a Texas State law requiring minors to file medical malpractice actions before reaching the age of majority or risk being outside the statute of limitations. Of interest is the majority's discussion of the importance of abiding by a prior Texas Supreme Court decision, a decision that was now stare decisis, unanimously striking down a previous version of the statute.

In what reads as a lecture to the dissent, one of the very respected members of the Texas Supreme Court, then-Justice John Cornyn, explains on behalf of the majority:

> Generally, we adhere to our precedents for reasons of efficiency, fairness and legitimacy. First, if we did not follow our own decisions, no issue could ever be considered resolved. The potential volume of speculative relitigation under such circumstances alone ought to persuade us that stare decisis is a sound policy. Secondly, we should give due consideration to the settled expectations of litigants like Emmanuel Wasson, who have justifiably relied on the principles articulated in the previous case. . . . Finally, under our form of government, the legitimacy of the judiciary rests in large part upon a stable and predictable decision-making process that differs dramatically from that properly employed by the political branches of government.

That Justice Cornyn sure knows how to write. He did a great job on this one. Now, I may not agree with him on all other things, I may not even agree with him on the issue before us now, but I sure agree with his decision there.

Actually, I speak of it as being a conservative Supreme Court. In the 30 years I was practicing, we had a pretty conservative Supreme Court in Vermont, and I suspect they would have written the same thing. I suspect most supreme courts would have written the same lines about stare decisis. I do not think that is a case whether one is conservative or liberal on their supreme court. I suspect we could go through all 50 States, whether it is Wyoming, Vermont, Texas, or anywhere else, and find similar language.

The Republican majority on the Texas Supreme Court followed precedent. They followed stare decisis.

In Montgomery Independent School District v. Davis, Justice Owen wrote another dissent which drew fire from a conservative Republican majority, this time for her disregard for legislative language. In a challenge by a teacher who did not receive reappointment to her position, the majority found the school board had exceeded its authority when it disregarded the Texas Education Code and tried to overrule a hearing examiner's decision on the matter. Justice Owen's dissent advocated for an interpretation contrary to the language of the applicable statute.

The majority, which included Alberto Gonzales, now counsel at the White House, and two other appointees of then-Governor Bush, was quite explicit about the view that Justice Owen's position disregarded the law:

> The dissenting opinion misconceives the hearing examiner's role in the . . . process by stating that the hearing examiner ''refused'' to make findings on the evidence the Board relies on to support its additional findings. As we explained above, nothing in the statute requires the hearing examiner to make findings on matters of which he is unpersuaded.

The majority also noted the dissenting opinion's misconception, speaking of Justice Owen's opinion:

> The dissenting opinion's misconception of the hearing examiner's role stems from its disregard of the procedural elements the Legislature established in subchapter F to ensure that the hearing-examiner process is fair and efficient for both teachers and school boards. The Legislature maintained local control by giving school boards alone the option to choose the hearing-examiner process in nonrenewal proceedings. . . . By resolving conflicts in disputed evidence, ignoring credibility issues, and essentially stepping into the shoes of the factfinder to reach a specific result, the dissenting opinion not only disregards the procedural limitations in the statute but takes a position even more extreme than that argued for by the board. . . .

Then we have Collins v. Ison-Newsome, another case where a dissent, joined by Justice Owen, was roundly criticized by the Republican majority of the Texas Supreme Court. The court cogently stated a legal basis for its conclusion that they had no jurisdiction to decide the matter before it, and as in other opinions where Justice Owen was in dissent, took time to explicitly criticize the dissent's position contrary to the clear letter of the law.

At issue was whether the Supreme Court had the proper ''conflicts jurisdiction'' to hear the interlocutory appeal of school officials being sued for defamation. The majority explained that it did not because published lower court decisions do not create the necessary conflict between themselves. The arguments put forth by the dissent, in which Justice Owen joined, offended the majority, and they made their views known, writing:

> The dissenting opinion agrees that ''because this is an interlocutory appeal . . . this Court's jurisdiction is limited,'' but then argues for the exact opposite proposition. . . . This argument defies the Legislature's clear and express limits on our jurisdiction. . . . The author of the dissenting opinion has written previously that we should take a broader approach to the conflicts-jurisdiction standard. But a majority of the Court continues to abide by the Legislature's clear limits on our interlocutory-appeal jurisdiction.

Listen to what they said. Justice Owen says because this is an interlocutory, the appeals court's jurisdiction is limited, but as the majority point out, she then argued for the exact opposite proposition.

They go on to say, ''[W]e cannot simply ignore the legislative limits on our jurisdiction. . . .''

She was defiant of legislative intent, a total disregard of legislatively drawn limits.

I agree with what President Bush said during the campaign, he wanted people who would interpret the law on courts and not make the law. We have someone here who, time and again, substitutes her judgment for the legislature's judgment. In fact, she wants to be both the legislature and the judiciary.

You can be one or the other. You cannot be both, not in our system of government.

We are already saddled with an activist Supreme Court, the U.S. Supreme Court. We are creating more activist courts of appeals. This is someone who fits into the absolute motto of being an activist judge.

Frankly, I am opposed to the idea of having activists judges either on the liberal side or the conservative side. I want judges who interpret the law who do not make the law, justices who are fair and open to all litigants. I want litigants to be able to walk into a courtroom and look at the judge and say, it really does not make any difference whether I am plaintiff, defendant, rich, poor, liberal, conservative,

what political party I belong to, what color I am, what religion I practice, that judge will hear my case fairly. That judge will either rule with me or rule against me but it will be based on the facts and the law before the judge and not because of their particular ideology or their particular bent or their desire to substitute themselves and their opinion, either for the executive or for the legislative branch of Government.

Some of the most striking examples of criticism of Justice Owen's writings, or the dissents and concurrences she joins, come in a series of parental notification cases heard in 2000.

In the case of Jane Doe I, the majority included an extremely unusual section explaining the proper role of judges, admonishing the dissent joined by Justice Owen for going beyond its duty to interpret the law in an attempt to fashion policy. Giving a pointed critique of the dissenters, the majority explained that:

> In reaching the decision of granting Jane Doe's application, we put aside our personal viewpoints and endeavored to do our jobs as judges—that is, to interpret and apply the Legislature's will as has been expressed in the statute.

In a separate concurrence, Justice Alberto Gonzales wrote to construe the law as the dissent did ''would be an unconscionable act of judicial activism.''

I will speak further on this. I see the distinguished Senator from Texas, who I understand may have a differing view than I do on this nomination, and I do want to make sure he is given a chance. I will speak for a few more minutes and then yield.

I note one thing. Justice Owen has been nominated to fill a vacancy that has existed since January 1997. We are now in the year 2003. This vacancy has existed for 6 years. One might wonder why nobody was nominated during that time. Actually, they were. President Clinton first nominated Judge Jorge Rangel, a distinguished Hispanic attorney from Corpus Christi, to fill that vacancy. He had one of the highest ratings of the American Bar Association, a majority found him well qualified. He was strongly supported by so many across the political spectrum who wrote to me. It was not a question of being voted down; he was never even allowed to have a hearing.

Finally, after 15 months, out of frustration, he asked the President to withdraw his nomination. He said, if I am not going to be allowed to have a hearing, to say nothing about a vote, I am leaving.

Then September 16, 1999, 4 years ago, President Clinton nominated Enrique Moreno, another Hispanic attorney, to fill that same vacancy. This Harvard-educated lawyer also received a rating of well qualified from the ABA, and his was a unanimous well qualified.

Members may be wondering what the vote was on him. Well, there wasn't a vote. There was not even a hearing. He waited for a year and a half and never got a hearing. So both of these people were carefully rejected by not having a hearing.

For years, as I have spoken before, we needed 100 votes to get any nominee through. Unless every single Senator, every single Senator agreed, the nominee would not get a hearing. Time and time again, dozens upon dozens upon dozens of cases, every single Democratic Senator agreed they should at least have a hearing and a vote, and at least one Republican would disagree, and they would never be given a hearing. As Allen Snyder, DC Circuit, never given a vote. Elena Kagan, just named the dean of the Harvard Law School, never given a hearing or a vote; Robert Cindrich, Third Circuit, never given a hearing or a vote by the Republicans; Steven Orlofsky, Third Circuit, never given a hearing or a vote by Republicans; James Beatty in the Fourth Circuit, never given a hearing or a vote by Republicans because not all of them agreed. If one disagreed, if one objected, they were not given a hearing or a vote. Andre Davis, Fourth Circuit, never given a hearing or a vote because at least one Republican disagreed. They needed 100 votes to make it. Elizabeth Gibson, Fourth Circuit, never given a hearing or a vote because one Republican disagreed.

The Fifth Circuit, Alston Johnson, never given a hearing or a vote, because at least one Republican disagreed. Kent Markus, in the Sixth Circuit, Kathleen McCree Lewis, eminently well qualified, at least one Republican disagreed, never given hearings, never given votes. James Duffy in the Ninth Circuit, never given a hearing or a vote, because at least one Republican disagreed. And the same could be said about so many others. James Lyons in the Tenth Circuit. Interestingly enough, in the Tenth Circuit never given a hearing or a vote because one Republican disagreed, and Democrats had helped move forward somebody who many disagreed in that same circuit.

I might point out that of all these people, and so many others, there are dozens of others, but all of these had ratings of well qualified from the ABA. But at least one Republican disagreed, and if just one Republican disagreed, they were never allowed to have a hearing or a vote.

Interestingly enough, it wasn't until May of last year, in the hearing chaired by Senator SCHUMER, that this committee heard from any of President Clinton's three unsuccessful nominees for the Fifth Circuit. Last May, Mr. Moreno and Judge Rangel testified, along with other of President Clinton's nominees, about their treatment by the Republicans, when the Republicans were in charge of the Senate Judiciary Committee. These nominees were told by at least a couple of the members, senior members of the Republican Party, that if somebody in their caucus disagreed, that was too bad. It had nothing to do with their qualifications. They were not going to fill that vacancy.

This happened in a number of circuits, including the Fifth Circuit. In fact, when the committee held its hearing on the nomination of Judge Edith Clement to the Fifth Circuit in 2001, it was the first hearing on a Fifth Circuit nominee in 7 years. By contrast, Justice Owen was the third nomination to the Fifth Circuit on which the Judiciary Committee, under my chairmanship, held a hearing in less than 1 year. In spite of the treatment by the former Republican majority of so many moderate judicial nominees of the previous President, we proceeded last July with a hearing on Justice Owen.

So Justice Owen was the third nominee to this vacancy. She was the first to be afforded a hearing before the committee. Actually, I set that hearing. I even set the vote on a day that President Bush personally asked me to set the vote. After having set it on the day he asked me to, the political arm of the Justice Department immediately started calling all these editorial writers and others, saying: It is terrible she is being set for a vote on that day.

It was interesting. They then, as they had the right to do, put it off for several weeks, the vote. I almost wonder what the vote would have been had it been on the day the President asked to have the vote, and the day I agreed with the President to have the vote, and then was castigated by the White House for going along with what President Bush wanted. It is, with this administration, sort of: No good deed goes unpunished.

But then I think it is interesting what happened. Because after the Republicans put it off and we did not have the vote on the day the President asked, there was so much partisan politicking that went on on her behalf that I think it solidified at least a couple of votes against her on that committee. We will never know.

But, even though Republicans had blocked many of President Clinton's nominees for the Fifth Circuit, we moved forward in a hearing for Priscilla Owen. At her hearing a couple of weeks ago, her second hearing, her unprecedented hearing, the chairman was very dismissive of our concerns and our efforts to evaluate this nomination on the merits. But the irony is, she has been before this committee twice now and neither time did the explanations change the facts before us. The President has said, and I am sure all his pollsters will tell him, people agree with this, as they should, the standard for judging judicial nominees would be that they ''share a commitment to follow and apply the law, not make law from the bench.''

Everybody agrees with that. I agree with that. I don't know anybody who disagrees with that. But that is not Priscilla Owen's record. She is ready to make law and legislate from the bench.

She is not qualified for a lifetime appointment to the Federal bench. This

is something that affects all of us, these decisions. To put somebody in a lifetime appointment like that who has already shown she is an activist judge, I think is wrong. The President spoke of judicial activism without acknowledging that ends-oriented decision-making can come easily to ideologically motivated nominees. In the case of Priscilla Owen, we see a perfect example of such an approach to law. I do not support that. I will not.

I am perfectly willing to consent to the confirmation of consensus, mainstream judges. I have on hundreds of occasions. When I was chairman, I did not allow the past rule—the past practice of anonymous holds. We even had a number I did not support, but brought them to a vote. When they got through the committee they came on the floor.

Justice Owen was plucked from a law firm by political consultant Karl Rove. She ran as a conservative pro-business candidate for the Texas Supreme Court. She certainly got a lot of support from the business community. Then she fulfilled her promise; she became the most conservative judge on a conservative court. She stood out for ends-oriented, extremist decision-making.

Now she is being asked to be placed in a lifetime appointment one step below the Supreme Court. I do not support that.

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

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

Mr. CORNYN. Mr. President, I want to take the next few minutes to respond to some of the comments the ranking member of the Judiciary Committee has made with regard to the process by which we confirm judicial nominees of the President, and to specifically respond to some of the areas of criticism that he and a handful of special interest groups have directed at the nomination of Priscilla Owen.

I believe, even though I am a new Member of the Senate—having been a Senator for all of about 4 months now—I have, at least in this area, some special knowledge I would like to share with my colleagues with regard to this particular nominee because for 7 years I served on the Texas Supreme Court and for 3 years concurrently with Justice Priscilla Owen.

So during that time I had the chance to work with her on a daily basis, learn her work habits and her frame of mind when it came to addressing her responsibilities as a judge on the highest court of my State. I believe in each instance the criticism the ranking member has lodged—really repeating that which special interest groups have lodged unfairly against Priscilla Owen since her nomination on May 9, 2001—can be refuted, or at least explained in a way that I think demonstrates she should be given the opportunity for an up-or-down vote in the Senate, where I am convinced that a bipartisan majority of this body stands ready to confirm her nomination.

Senator LEAHY has gone through some history of the Clinton administration and the nominees of that administration and the treatment—unfair treatment, in his eyes—of President Clinton's nominees. I think what we are supposed to conclude from that is that somehow this game of tit for tat, or what is sauce for the goose is sauce for the gander, somehow rises to the high level of performance that the American people have cause to expect of us whom they send to the Senate.

I contend that rather than serve the interests of the American people, the way in which the Senate Judiciary Committee proceedings have been conducted for some time now—particularly as evidenced now by the filibuster being imposed against the nomination of Miguel Estrada—have been a disservice to the American people.

I have supported—and Senator LEAHY has said he agrees with me—that we need to find some way to bring a conclusion to this downward spiral, in a way that serves the interests of the American people and does credit to this institution. I hope, in the days that lie ahead, we will find an opportunity to do that. I trust we will. I only hope the Senate does not grab defeat from the jaws of victory in terms of our opportunity to reform this broken system of judicial confirmation, one that does not reflect well on this institution.

Senator LEAHY talked about how unprecedented this nomination is, pointing out that last year, during Senate Judiciary Committee hearings, Justice Owen was voted down in a strict party-line vote, and that she would now be renominated by the President and then brought to the floor. I guess these are unprecedented times when it comes to judicial confirmation proceedings.

As I mentioned just a moment ago, we have an unprecedented filibuster by the Democratic minority of Miguel Estrada, someone who, I believe, would receive a majority vote from a bipartisan group of Senators on this floor should the Senate just be allowed to vote. Of course, we have been through, I think, four cloture motions, which have failed, which means that debate continues on that nomination. Here again, unprecedented in the annals of this institution: a circuit court judge being filibustered for no good reason, I would contend.

Senator LEAHY says Justice Owen is an activist, someone who would impose her own will or political judgment on the people regardless of what precedent had established earlier decisions by the highest court in the land or what the legislature says. But the way he explains what he means by ''activism'' I think equates with: I don't agree with the results of the decision.

If that is the definition of ''activism,'' then activism has no meaning, or certainly no commonly understood meaning, because, of course, any reasonable person might disagree with the outcome of any judicial decision and thereby label that judge who made the decision an activist. But that is certainly not the commonly understood meaning: just the fact that judges may, in fact, disagree with each other from time to time.

I think some have pointed out, as an example of Justice Owen's failings, that some judges at different times have had cause to disagree with her decision. But, in fact, that is what we expect of judges—certainly at the highest levels of our judiciary—that they will do their very best to research the law, to comb the record, to try to discern what precedents might apply, what statutes that have been passed by Congress might apply, and then to apply that law to the facts as decided by the fact finder in order to reach a decision.

At the highest levels of our judiciary we commit that decision to nine people, and frequently they disagree with each other. We do not point that out as a fault or a failing; we view that as a strength because in the debate, the dialog, the back and forth—the conversation really—these judges have, we believe the public purpose for which the judiciary was created is served. I believe that to say it represents a failing or represents a reason a judge should not be confirmed turns the whole purpose of that body on its head.

Senator LEAHY claimed that Justice Owen is simply too extreme to be confirmed—this notwithstanding the fact that in her last election to judicial office in the State of Texas, 84 percent of the voters voted in her favor.

She has been endorsed by a bipartisan group of the leadership of the bar in my State, Republicans and Democrats alike, former presidents of the Texas Bar Association. She has received the highest endorsement, the highest recommendation given by the American Bar Association. How, in any fair-minded person's view, could Justice Owen be characterized as too extreme in light of those simple facts?

As some evidence of his argument that Justice Owen is somehow an activist, somehow too extreme, Senator LEAHY has pointed to language in a number of opinions where she has been criticized for rewriting statutes. As somebody who has, for better or worse, served for 13 years as a judge before I came to this institution, I can tell you, that is simply the way judges talk to each other when they disagree about the outcome in any case. They do their very best to research the law, to try to ascertain what the legislative intent is in any particular case, and then they reach a conclusion. Someone who disagrees with that judge may say: Well, I disagree. I believe you are rewriting the statute. It is not as serious nor certainly as consequential a statement as Senator LEAHY might suggest. It is just another way of saying: I disagree.

Here again, judges disagree, particularly on the most difficult questions that confront our States or this Nation. We expect judges to speak their mind. We expect judges to enter into intelligent debate and discussion, and when they disagree, so much the better. But finally—finally—there has to be a decision. That is where the majority comes into play and makes a final decision.

So judges being accused of rewriting statutes does not have nearly the sinister connotation that some might suggest and, in fact, to me just represents judges trying to do their jobs to the best of their ability.

I just have to mention that Senator LEAHY pointed to one case where Justice Owen and I disagreed when I was on the Texas Supreme Court, the Weiner v. Wasson case, and it was one of a number of cases where she and I disagreed. But, here again, the fact that we disagreed does not make her incompetent to serve on the Fifth Circuit Court of Appeals or unqualified or somehow activist. It means simply that we had different opinions of how the law ought to be ascertained, what that law was, and how it should be applied to the facts.

The language Senator LEAHY read, with which he said he agreed, about the importance of stare decisis, adheres to the precedents set out by our highest court in terms of setting expectations of the litigants, achieving finality of a decision rather than relitigating the same legal questions over and over again. That was no lecture but merely an explanation to the one who was challenging the constitutionality of the statute in that case or the one who claimed the statute was constitutional; in fact, it was important that we adhere to an earlier decision where we had held a similar statute unconstitutional. It was certainly not a lecture.

It just goes to prove that when you read the written record in black and white, sometimes it fails to impart enough information to make an informed decision about what is going on. That is why we have juries, to listen to witnesses, confront witnesses face to face in court. That is why, as appellate judges, we defer to the facts found by juries and lower courts, because they are in the best position to determine the veracity of the testimony and the credibility of the witness. That is why a written record can sometimes simply mislead you into a wrong conclusion, which has happened in the case of Justice Owen.

I could not support the nomination of Justice Owen to the Fifth Circuit Court of Appeals more strongly. This court, of course, covers the States of Texas, Mississippi, and Louisiana and all Federal appeals that come from those States. I firmly believe Justice Owen deserves to be confirmed. She will be confirmed by a bipartisan majority of the Senate as long as the Senate applies a fair standard and as long as we continue to respect Senate traditions and the fundamental democratic principle of majority rule by permitting an up-or-down vote on her nomination.

The American people desperately need the Nation's finest legal minds to serve on our Federal courts, particularly vacancies such as those on the Fifth Circuit, which have been designated judicial emergencies by the U.S. Judicial Conference. We must ensure that all judicial nominees understand that judges must interpret the law as written and not as they personally would like to see them written.

Justice Owen satisfies both of these standards with flying colors. She is, quite simply and by any measure, an impressive attorney and jurist. She graduated at the top of her class at Baylor Law School and was an editor of the Law Review at a time when few women entered the legal profession. She received the highest score of her class on the bar examination, and she was extremely successful as a practicing attorney in Houston, TX, and across the State for 17 years before she began her service on the Texas Supreme Court, where she has served with distinction for 8 years.

I alluded to this a moment ago, but in her last election not only did she receive the overwhelming majority of the statewide vote, she was endorsed by virtually every Texas newspaper editorial board—hardly the record of an out-of-the-mainstream nominee. She has the support of prominent Democrats in Texas, including former members of the Texas Supreme Court such as former Chief Justice John Hill, former Justice Raul Gonzalez, and a bipartisan array of former presidents of the State bar association.

The American Bar Association has given her its unanimous and highest well-qualified rating, which some in this Chamber have called the gold standard.

I cannot understand nor fathom how any judicial nominee can receive all of these accolades from legal experts and public servants across the legal and political mainstream unless that nominee is both exceptionally talented as a lawyer and a judge who respects the law and steadfastly refuses to insert his or her own political beliefs into the decision of cases.

Based on this amazing record of achievement and success, it is no wonder that Justice Owen has long commanded the support of a bipartisan majority of the Senate while her nomination has lingered since May of 2001.

I would like to talk about my own personal perspective on this nominee, having worked with her for 3 years. During that time, I had the privilege of working closely with Justice Owen. I had the opportunity to observe on a daily basis precisely how she approaches her job as a jurist, what she thinks about the job of judging in literally hundreds, if not thousands, of cases. During those 3 years, I spoke with Justice Owen on countless occasions about how to read statutes faithfully and carefully and how to decide cases based on what the law says, not how we personally would like to see it read or to have come out.

I saw her take careful notes, pull the law books from the shelves and study them very closely. I saw how hard she works to faithfully interpret the law according to her oath and to apply the law as the Texas Legislature has written.

I can testify from my own personal experience, as a former colleague and as a former fellow justice, that Justice Owen is an exceptional judge, one who works hard to follow the law and enforce the will of the legislature, not her will.

Not once did I see her try to insert her own political or social agenda into her job as a judge. To the contrary, Justice Owen believes strongly, as do I, in the importance of judicial self-restraint, that judges are called upon not to act as legislators or as politicians but as judges, to faithfully read statutes and to interpret and apply them to the cases that come before the court.

It is because I have such a deep admiration for Justice Owen that I have taken such a personal interest in talking about her nomination and hoping, not beyond hope, that Senator LEAHY and others who, I am convinced, have profoundly misjudged this nominee will reconsider their views and perhaps will take what I have to say today in the overall context of the nominee and reconsider her nomination.

On the morning of Justice Owen's confirmation hearing in the Judiciary Committee last month, I published an op-ed in the Austin American-Statesman discussing Justice Owen's qualifications for the bench.

I ask unanimous consent to print that op-ed in the RECORD.

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

[From the Austin American-Statesman, Thursday, Mar. 13, 2003]

THE REAL PRISCILLA OWEN

(By John Cornyn, U.S. Senate)

After 22 months of obstruction, the record on Texas judicial nominee Priscilla Owen will finally be set straight this morning in a U.S. Senate Judiciary Committee hearing. For the second time, Owen comes before the committee and will prove, once again, that she deserves to be confirmed to the 5th U.S. Circuit Court of Appeals. The Circuit's jurisdiction encompasses Texas, Louisiana and Mississippi.

Owen is an impressive attorney and jurist. She graduated at the top of her class from Baylor Law School and edited the Law Review there, during a time when few women entered the legal profession. She received the highest score on the bar exam.

After practicing law in Texas for 17 years, Justice Owen won a seat on the Texas Supreme Court, and Texans re-elected her in 2000 with 84 percent of the statewide vote. Her nomination has received broad, bipartisan support, including former state Supreme Court justices and prominent Texas Democrats such as John Hill and Raul Gonzalez, 15 former presidents of the State Bar of Texas and many other leading Texans.

Owen's qualifications and record of accomplishment caused the American Bar Association to unanimously rate her ''well-qualified'' for the Federal bench—its highest rating—which some Democrats have called the ''gold standard.'' But even that was not enough for the 10 Democrats on the Senate Judiciary Committee last year who blocked a vote on Owen by the full Senate.

Democrats on the Judiciary Committee used Owen as a political football last year in an attempt to embarrass President Bush and ridicule Texas during key elections. They tried unfairly to brand the native Texan as an extremist.

Partisan opponents point out that other judges sometimes disagree with Owen. But there is nothing wrong with disagreement; no two judges agree all the time—which is precisely why the Texas Constitution establishes a Supreme Court of nine justices. When the law is unclear, a good judge like Justice Owen searches in good faith for the right answer.

As a former justice on the Texas Supreme Court, I often agreed with Owen. When we disagreed, I always found her professional and her rulings based on a fair reading of the law.

Abortion advocates criticize her rulings on Texas's parental notification law. Unlike more restrictive states, Texas generally requires minors only to notify one parent before an abortion. The criticism is misplaced: Owen did not write the law, the state Legislature did.

Her opponents claim, disingenuously, that her interpretations of that law are out of the mainstream. Yet the author of the parental notification law, Texas state Sen. Florence Shapiro, filed briefs supporting Owen's view and endorses her nomination to the Federal bench. And among the few parental notification cases heard by her court, Owen dissented less frequently than two other justices. Owen's record is hardly one of an extremist.

When we set the record straight, it will be obvious in Washington—as it has long been in Texas—that Priscilla Owen is an outstanding person and well-qualified judge who deserves confirmation to the Federal court of appeals. After 22 months, Texans and the 5th Circuit have already waited long enough.

Cornyn, a Republican, is a member of the Senate Judiciary Committee.

Mr. CORNYN. Senator HATCH, chairman of the committee, also gave me the opportunity to chair a portion of the hearing at which Justice Owen's nomination was voted out. I publicly thank him for that special opportunity to not only express my strong support but to demonstrate it at that hearing.

At the same time I have taken a deeply personal interest in this nomination, I also want to step back and carefully consider the arguments that have been presented by opponents of the nomination.

I have mentioned some of those at the outset, particularly in response to what Senator LEAHY had to say. I am forced to conclude Justice Owen's opponents have no real arguments—none that stand up under scrutiny; at least none that will withstand scrutiny under any reasonably fair standard.

It bears noting, by the way, that Justice Owen's opponents are the same folks who predicted Lewis Powell's confirmation to the Supreme Court of the United States would mean ''justice for women will be ignored.''

Her opponents, the special interest groups who oppose her nomination, are the same folks who argued Judge John Paul Stevens had demonstrated ''blatant insensitivity to discrimination against women'' and ''seems to bend over backward to limit'' rights for all women.

Amazing as it may seem, her opponents are the same folks who testified that confirming David Souter to the Supreme Court would mean ''ending freedom for women in this country.'' Then the same folks who said they ''tremble for this country, if you confirm David Souter,'' even described now-Justice Souter as ''almost neanderthal'' and warned ''women's lives are at stake'' if the Senate confirms Souter.

Well, the rhetoric and the histrionics and the lack of credibility of those outlandish verbal assaults on judicial nominees sound all too familiar because, of course, these are many of the same accusations being made against Justice Owen, which are equally unfounded.

This reminds me of the story of the little boy who cried wolf. After these repeated charges, accusations, and shrill attacks—and we have heard many of the same directed against Miguel Estrada, without foundation—it makes you wonder just how credible these special interest groups really are that oppose some of President Bush's highly qualified nominees. It also makes you wonder whether these special interest groups makes these claims not because they believe they are truthful, but because they have another agenda, some other reason for making these claims, for scaring people.

In the particular case of Justice Owen, the attacks are, I am sad to say, true to form and conform to past patterns and practice, for they are, like the attacks of the past on the judges whose names I have mentioned, unfair and without foundation in either fact or law.

I mentioned just a moment ago how I believe the critics—people like the distinguished Senator from Vermont—point out judges sometimes disagree about the interpretation of statutes. You may read one judge's criticism of another judge's interpretation as ''rewriting a statute.'' I hope you will consider those comments and take them into account, as I hope others will who currently oppose Justice Owen's nomination. But if that is the standard—and I don't think it should be—then such a standard would also disqualify numerous U.S. Supreme Court justices, whom Owen's opponents are known to adore.

For example, in a 1971 opinion, Justices Hugo Black and William O. Douglas sharply criticized Justices William Brennan, Harry Blackmun, and others, stating that the ''plurality's action in rewriting the statute represents a seizure of legislative power that we simply do not possess.''

In a 1985 decision, Justice John Paul Stevens accused Justices Lewis Powell, Sandra Day O'Connor, and Byron White of engaging in ''judicial activism.'' Of course, these are not the only examples that pervade the U.S. Reports.

Would Justice Owen's opponents apply the same standard and exclude from consideration or confirmation their own favorite justice from Federal judicial service? I imagine not. Fairness only dictates that Justice Owen not be made to suffer from this same absurd and unreasonable standard either.

This whole issue reminds me of the scene from the movie ''Jerry Maguire,'' when Cuba Gooding, Jr., tells Tom Cruise: ''See, man, that's the difference between us. You think we're fighting, I think we're finally talking.''

Well, simply put, this is the way judges talk in opinions, and it certainly does not disqualify Justice Owen from confirmation.

Those who emphasize critical quotes about Justice Owen from other justices on the Texas Supreme Court think they are fighting, but actually the justices are just talking. They are just judging and they are just doing the duty they were asked to do and took an oath to perform.

Mr. President, I note we have about 5 minutes remaining on the clock, so I will cut short the remainder of my remarks. I will be back on the floor as needed, depending upon how this debate continues. It is my hope we will see a unanimous consent agreement to achieve a limit on debate, an adequate time certainly, where everybody who wants to be heard can be heard on this highly qualified nominee. I hope during that debate the people listening—both colleagues in the Senate and those listening across this country—will take all of the debate into account, both the charges and the answers, some of which I have given today, and make their own assessment of the credibility of some of these charges—charges which I believe are unfair and unfounded and without any merit as regards Justice Owen.

Finally, let me just say I hope the Democratic minority in this body does not choose to make the same ill-considered decision to filibuster Justice Owen as they made in the case of Miguel Estrada. I believe debate is important. But, of course, sooner or later, we have to, and we should, do what the voters of our States have sent us here to do, what the Founders of this country, the Framers of our Constitution, expected us to do—that is, to vote. They expected the Senate to be a body where debate would be favored—and certainly it is that—where nothing happens precipitously—and certainly it is that—and where enough debate and time can be taken to cool tempers and emotions and passions and make the very best decisions we can possibly make on behalf of the American people.

But after everything has been said once, or twice, or five times, or 10 times, or a hundred times, you would

think the Senate should vote. I believe the Senate should vote. I believe that is what the Framers expected, and I believe they never considered a minority of this body could obstruct the will of a bipartisan majority when it comes to the nomination of a highly qualified judicial nominee.

I hope at the appropriate time there will be that unanimous consent agreement and we will continue to debate Justice Owen's nomination for a reasonable period of time—as long as anyone has anything new to say—but, in the end, that we will have an up-or-down vote, which is something currently being denied to Miguel Estrada. I certainly hope the precedent that has been set now in the case of Miguel Estrada—which I believe is a black mark on the record of this institution—will not be repeated in the case of Priscilla Owen.

I thank the Chair, and I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BURNS).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Montana, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

LEGISLATIVE SESSION

CARE ACT OF 2003

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now return to legislative session and proceed to the consideration of S. 476, the CARE Act, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 476) to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

The Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I have a few remarks on the legislation. I am sure my good colleague, Senator BAUCUS, has remarks as the manager for the Democratic Members. We would also like to take quick action on a managers' amendment that is in order under a unanimous consent agreement. There are a few issues that have to be cleared on the amendment.

I rise to speak on the CARE Act of 2003. I will first talk generally about the charitable provisions in the bill and then talk about those provisions designed to combat corporate tax shelters.

The CARE Act seeks to support that great American tradition—helping a neighbor in need. Our Nation's tradition of caring and charitable support goes back to the founding. When faced with tragedy or hardship in our communities, we have always been a people who have rolled up our sleeves to pitch in, rather than leaning on a shovel waiting for the government to show up.

The charitable tradition in America has certainly been for the common good. Unfortunately, there are not many K Street lobbyists for charities and for the common good.

That is why this legislation is a direct testimony to the leadership of President Bush. There is no question that but for his efforts, this legislation for the common good would not have seen the light of the Senate floor.

Let me note that commentators have rushed to state that the President's efforts to strengthen America's charitable tradition has been watered down. Nothing could be further from the truth. This legislation goes far in meeting the President's ambitious goals for a greater role for charities in assisting those most in need.

And legislation is only part of the story. The President's speeches and visits have done even more to energize the charitable sector of this country. Hardly a week goes by when I am not stopped by someone who runs a charity, or is active in a charity, and they ask me how they can get involved in the President's proposal, how they can help. Clearly, President Bush's words have been heard by America's charities and they are eager to turn his words into deeds of compassion and aid.

In addition to this legislation being a tribute to President Bush's leadership, let me also note the tremendous efforts of Senators SANTORUM and LIEBERMAN to bring this bill to the Senate floor. I commend them for their energy in making the CARE Act a reality. Finally, I'm pleased to have worked with Senator BAUCUS, the ranking member of the Finance Committee. This legislation continues our bipartisan efforts as to tax legislation.

Mr. President, for the benefit of my colleagues let me now highlight some of the major tax provisions of the CARE Act that encourage charitable giving.

First, is the creation of a charitable deduction for nonitemizers. Given that over half of Americans do not itemize their tax return, this provision will encourage taxpayers to give to charities, regardless of income. The legislation allows for charitable deduction of up to $500 for a married couple giving over $500 per year. For an individual filing single, it is a deduction of up to $250 for a person who gives over $250 per year. For example, an individual who doesn't itemize and gives $400 to charity, could deduct $150 from their taxes. This provision was designed to encourage new giving and also limit possible abuses.

Next is a major provision that will provide for tax-free distribution from Individual Retirement Arrangements, IRAs, to charities. This is a provision that is important to many major charities, particularly universities. The Finance Committee heard testimony from the President of the University of Iowa about the importance of this provision in encouraging new giving. The legislation provides that direct distributions are excluded from income at the age of 70½ and distributions to a charitable trust can be excluded after the age of 59½.

We then have language that encourages donations of food inventory, book inventory and computer technology. I would note that my colleagues, Senator LUGAR, and Senator LINCOLN, a member of the Finance Committee, were strong advocates for the legislation involving food donation. I'm particularly pleased that this legislation will give farmers and ranchers a fairer deal when it comes to donation of food.

Conservation is also a part of this bill. Efforts to conserve our land and limit development benefit our Nation as well as farmers and ranchers who work on the land. The CARE Act contains language I have long supported that will encourage conservation of land through a 25-percent reduction in the capital gains tax of the sale of undeveloped land, or conservation easements. The sale must be to a charitable organization and the land must be dedicated for conservation purposes. I am pleased that President Bush also included this proposal in his budget.

The bill also encourages gifts of land for conservation purposes. This is an issue long advocated by Senator BAUCUS, which I am pleased to support.

These are the major tax provisions that encourage charitable giving contained in this bill. I would note that I am pleased that the legislation does contain provisions requiring greater sunshine and transparency in the work of charities. It is my belief that just as we are encouraging people to write more checks, we need to ensure that those checks are being cashed for a charitable purpose. In addition, the bill authorizes a serious increase in funding for the Exempt Organizations Office at the IRS to better police the few bad apples among the nonprofits.

My colleagues should also be aware that this legislation addresses the abuse of charities by terrorist organizations, making it easier to shutdown or suspend such organizations.

Let me note also that this bill contains $1.4 billion in new funding for Social Services block grants, SSBG. This is a very important provision that will greatly benefit the States and, more

importantly, those in need. I would note that this was a matter of great priority for me, and I am glad to see we have been able to include this funding. The provision also gives States greater flexibility in how to use the SSBG funds.

My colleagues will be pleased to know that this bill is fully paid for. I turn now to discuss those provisions regarding abusive corporate tax shelters that are of great importance.

We have known for many years that abusive tax shelters, which are structured to exploit unintended consequences of our complicated Federal income tax system, erode the Federal tax base and the public's confidence in the tax system. Such transactions are patently unfair to the vast majority of taxpayers who do their best to comply with the letter and spirit of the tax law.

As a result, the Finance Committee has worked exceedingly hard over the past several years to develop several legislative discussion drafts for public review and comment. Thoughtful and well-considered comments on these drafts have been greatly appreciated by the staff and members of the Finance Committee. The collaborative efforts of those involved in the discussion drafts combined with the recent request for legislative assistance from the Treasury Department and IRS formed the basis for our most recent approach to dealing with abusive tax avoidance transactions.

The antitax shelter provisions contained in the CARE Act encourages taxpayer disclosure of potentially abusive tax avoidance transactions. It is surprising and unfortunate that taxpayers, though required to disclose tax shelter transactions under present law, have refused to comply. The Treasury Department and IRS report that the 2001 tax filing season produced a mere 272 tax shelter return disclosures from only 99 corporate taxpayers, a fraction of transactions requiring such disclosure.

Today's bill will curb non-compliance by providing clearer and more objective rules for the reporting of potential tax shelters and by providing strong penalties for anyone who refuses to comply with the revised disclosure requirements.

The legislation has been carefully structured to reward those who are forthcoming with disclosure. I wholeheartedly agree with the remarks offered by a recent Treasury Assistant Secretary for Tax Policy, that ''if a taxpayer is comfortable entering into a transaction, a promoter is comfortable selling it, and an advisor is comfortable blessing it, they all should be comfortable disclosing it to the IRS.''

Transparency is essential to an evaluation by the IRS and ultimately by the Congress of the United States as to whether the tax benefits generated by complex business transactions are appropriate interpretations of existing tax law.

To the extent such interpretations were unintended, the bill allows Congress to amend or clarify existing tax law. To the extent such interpretations are appropriate, all taxpayers—from the largest U.S. multinational conglomerate to the smallest local feedstore owner in Iowa—will benefit when transactions are publicly sanctioned in the form of an ''angel list'' of good transactions. This legislation accomplishes both of these objectives.

This year's legislation contains a new provision that would clarify the economic substance doctrine. The economic substance doctrine was created by the courts as a flexible text to determine whether a transaction is a tax scam or valid business deal.

Last year, there were several court rulings that, in my view, misapplied this doctrine. These rulings now stand as legal precedent that can be used to justify abusive schemes in the future. Today's clarification is intended to overturn those rulings. If a court finds that a shelter violates our clarification, the shelter participant would be subject to a strict 40 percent penalty on any tax due. This is a very tough anti-shelter provision.

Mr. President, I appreciate my colleagues' patience as I have reviewed the key provisions of the CARE Act. I think it is legislation that provides needed encouragement for charities and charitable giving in this country. In addition, it takes real steps toward addressing corporate tax shelters. I strongly encourage my colleagues to support this legislation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I thank the chairman of the Finance Committee, Senator GRASSLEY, for the great job he has done in putting this bill together. It is not easy. There are lots of different components and many Senators have legitimately different points of view. I commend him for his yeoman work. He is not here at the moment, but I want him to know, in the arena of the Senate, and publicly, he has done a great job. The folks in Iowa must be very proud of him.

The chairman and I together are considering a bill designed to help charitable organizations—that is the main goal here—and, therefore, to help our communities.

The bill is called the Charity Aid Recovery and Empowerment Act, otherwise known as CARE. Our President said it well:

> In order to fight evil we must do good. [And] it is the gathering momentum of millions of acts of kindness and compassion which define the true face of America.

I think that is very true. More than peoples in any other country, Americans are noted for their openness, their generosity, and their kindness. At a time when Americans are at war and our economy is sagging, this bill is more important than ever.

The economy is in worse shape than it has been in over a decade. Too many Americans go to bed hungry at night. Two million Americans have lost their jobs since 2001. Men, women, and children are increasingly relying on charities to meet their needs. The problem is made worse because our States are strapped with huge budget deficits. States are actually the No. 1 provider of social services, but presently they are experiencing the largest deficits they have had in 40 years.

This is where charities come in. Charities deliver food, water, clothing, and counseling to those in need. They are the first responders to these quiet tragedies. Let me give a few examples from my own home State of Montana.

Each year, the Montana Food Bank Network serves 1.5 million meals, including 200,000 meals to our State's children. Clearly our children can't learn if they go hungry.

There are roughly 30 adult literacy programs in Montana serving over 5,000 people.

Programs such as the Adult Literacy Center in Billings, MT, and the Literacy Volunteers of America in Butte provide free adult literacy classes to anyone who walks in the door, free to anyone who walks in. Groups like the Blackfoot Challenge provide local voluntary solutions to environmental problems like restoring stream habitat.

I copied the model of Senator BOB GRAHAM of Florida. He has what is called workday projects once a month and I do, too. One day I worked at Blackfoot Challenge and all of us together in the Blackfoot Valley—not all but a bunch of us, 15 people—volunteered our time and work to restore a stream habitat. Ranchers in the old days just plowed a straight channel through their places and eliminated the meandering nature of streams, which made it difficult for bull trout to come up and spawn. We decided to do this project together, in part because the higher-ups couldn't agree on anything. The Fish and Wildlife Service, State Fish and Wildlife, and Parks and all the government agencies couldn't get together, so locally we just said we are going to do it ourselves—and we did. It is such volunteer, charitable efforts that make a huge difference.

Our State's economy also benefits from tourism, and keeping our streams clean and teeming with fish is good for our economy. In fact, I might say, I was delayed coming to the floor because I was talking to a fellow who could hardly wait to get back to Montana because the right hatch is going on now. He is going to go fishing in the next couple of days. He couldn't wait to get back home.

The list goes on: Montanans, working in homeless shelters, churches, libraries, schools, boys and girls clubs, substance abuse centers, and jails.

Our State is not alone. This is true all across our country. In communities, millions of Americans depend upon the generosity of their neighbors and upon charitable organizations. The CARE Act is designed to help these organizations, helping them by creating incentives to encourage more contributions to charity—help them receive more contributions.

Let me describe some of the main provisions of the bill. The provision that has received the most attention is the above-the-line deduction for charitable contributions for people who do not itemize their deductions. Most Americans actually use the standard deduction—about 70 percent. This says: OK, all you folks who use the standard deduction—that is, you do not itemize your deductions—we will provide for an above-the-line charitable contribution for you as well, even though you do not itemize.

I must say, I have some concerns about this provision. Why? Because we tried this before. It didn't work very well. That is why we eliminated the deduction in 1986. More specifically, I am concerned that the deduction will not provide much of an incentive for charitable giving while making the Tax Code even more complicated. Nonetheless, the President has made this particular proposal a top priority and, in light of that, I am willing to give the proposal a chance. So we limited the proposal to 2 years to give us time to study it and see how it is working and gain from the experience.

While the nonitemizer deduction has received most of the attention, there are several other provisions of the bill that have strong bipartisan support. They could provide a significant boost to charitable giving. First, we provide enhanced deductions for contributions of food, of books, and computers. In response to growing economic hardship and hunger that has gone along with it, we have increased the deduction for contributions of surplus food. In most cases, the Tax Code provides the same tax deduction for food hauled to a landfill as it does for food donated to charities. That does not make a lot of sense.

Businesses that choose to contribute food instead of throwing it away are faced with the added costs of storing, packaging, and trucking the food to the charity.

So our new enhanced deduction will encourage business, farmers, and ranchers to contribute the food by offsetting these costs associated with the donations.

This makes it easier for the farmer in Montana to receive a fair deduction for giving food to a local food bank, for example.

We also make it easier for a publisher to donate extra books to a local library. Sometimes lots of books get stacked up and cannot be sold. I think it is a good idea to be able to donate them. And kids will be able to get much better access to computers and cutting edge technology.

Second, we expand the IRA rollover exception to allow individuals to donate their IRAs directly to charity without taking a tax hit.

Under current law, taxpayers, say, who are prospective donors would include their IRA income as taxable income and then take a corresponding charitable deduction, subject to limits, when they want to donate that IRA to a charity. The provision in the bill makes that easier, allowing direct giving; that is, streamlining the process and eliminating the limits that impede giving.

Third, in this bill we provide several important new incentives for voluntary conservation; for example, incentives to encourage contributions of conservation easements, which are so important, especially for my State of Montana and throughout the Nation. This means that cash poor/land rich farmers—which I must say, regrettably, is the rule, not the exception—can donate the conservation rights of their property and get a tax benefit and still keep the family farm in the family.

While the majority of the provisions in this bill encourage giving to charities, there are also provisions that help ensure that charities are responsible public citizens. As many have noticed, national newspapers have recently detailed the secretive use of charities by terrorist organizations. This is, obviously, a serious problem. The large majority of American charities are law abiding and serve an invaluable function. But there are a few exceptions.

So this legislation gives authority to the IRS to immediately revoke the tax-exempt status of charities that are suspected of giving aid to terrorist groups. When there is a crisis in confidence with respect to charities, it hurts honest groups. The charities that have worked hard to further their noble missions should not be jeopardized because of bad ''charities'' doing bad things.

The Finance Committee bill attempts to cure this by giving watchdogs and donors better tools to monitor the activities of charities. The CARE Act gives State attorneys general more authority to review the IRS filings of tax-exempt organizations.

In addition, the bill lets donors see more information about communications between charities and the IRS. These important steps will go a long way to help restore America's confidence in charities.

I have just provided some highlights of the bill, but there are a number of other important provisions. All told, this package includes many proposals that enjoy widespread support. It has bipartisan support. In fact, many provisions have been approved by the Senate.

With war costs on the horizon, and current budget deficits, it is essential we pay for this bill. I applaud Chairman GRASSLEY for insisting that these tax cuts be paid for. So let me turn to the provisions which cover the costs.

First, we have included a proposal that takes aim at the proliferation of abusive tax shelters. I, along with Senator GRASSLEY, introduced the Tax Shelter Transparency Act to encourage more timely and accurate disclosure of these abusive transactions. Under the proposal, we provide a disincentive to promoters, advisors, and taxpayers by subjecting them to stiff penalties for failing to acknowledge these transactions to the IRS.

The proposal also clarifies a definition of what is known as economic substance. That means it forces companies to engage in real business planning instead of tax-driven hoaxes. The Joint Committee on Taxation recently released its Enron report. The transactions it reviewed demonstrate the need for strong anti-avoidance rules to combat tax-motivated transactions. These deals might satisfy the technical requirements of the Tax Code, as well as administrative rules, but they serve little or no other purpose than to generate income tax or financial statement benefits; that is, there is no economic substance to the transactions. And the American taxpayers are cheated, frankly—those who do not have the ability to hire high-paid counsel and accountants to find these very complicated measures which, frankly, even the IRS cannot figure out in a lot of cases.

It is just not right when the majority of taxpayers—such as the hardware store owner, say, in Butte, MT—have to pay their fair share of taxes while these big corporations twist their way out of paying their own fair share. That is, I think, simply wrong. But it is the right thing to do to use this proposal to pay for tax incentives to benefit the charitable community. It is the right thing to do and the right time to do it.

I urge my colleagues to support this legislation.

I yield the floor.

Mr. DURBIN. Mr. President, I rise today to discuss the CARE Act and my concerns regarding the implementation of President Bush's faith-based initiative.

Like many of my colleagues, I am a person of faith. I support the good work that religious organizations undertake every day. I agree with President Bush and the sponsors of this legislation that there is an important role for the Federal Government to play in encouraging religious organizations to do more for the good of society.

In fact, I support many of the provisions of the CARE Act before us today. For example, I have been an original cosponsor of the Charitable IRA Rollover Act and a cosponsor of the Good Samaritan Hunger Relief Tax Incentive Act in the last two Congresses. I also

support the increased funding for the Social Services block grant.

However, when I read the specific details of how the President is implementing his faith-based initiative, I am concerned that the good intentions behind this proposal may be lead to troubling, unintended consequences.

It appears that what the President wants to achieve with this initiative is to fundamentally change the historic balance in the relationship between government and religion that our founding fathers struck over 200 years ago.

I believe and many of my colleagues agree: this Senate debate is historic. With our deliberations, we will test Constitutional principles regarding the place of religion in America in a way they have never been tested.

That is why many Senators joined me in insisting that the Senate take all deliberate time and attention to carefully review this bill and to add language to clarify and improve the bill.

Since the Senator from Pennsylvania has agreed not to add language that would raise concerns with respect to church and state, I have joined with Senator JACK REED of Rhode Island in agreeing not to offer our amendments at this time. However, I would like to take this opportunity to express my concerns regarding the President's implementation of his faith-based initiative which, if offered at a later time, I hope will be subject to a vigorous, important, and historic debate in the Senate.

We should begin this debate at the beginning. The opening words of our Bill of Rights state that:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

For over two centuries, those 16 words have served us well and have protected religious freedom in America.

We must continue to respect the diversity of belief in America and remember that freedom from government interference was one of the few principles that early Americans, with a variety of religious backgrounds, could agree on.

In fact, many of the settlers who colonized America fled from religious persecution by government officials in their native countries and they still do.

James Madison recognized that this history of religious persecution was based upon Government involvement in establishing official churches. He believed that Government support of certain religions could threaten the liberty of every citizen to hold his or her own religious convictions.

Madison suggested that the Government support of religion differs only in a matter of degree, and he vehemently opposed the payment of taxes in support of any religion.

Before the American Revolution, the State of Virginia rescinded a tax in support of the Anglican Church, which was their so-called established church, and instead granted its citizens religious liberty. However, in 1784, Patrick Henry became concerned with the moral decline of Virginians and he proposed a bill to restore the tax to support ''teachers of the Christian religion.''

Madison responded to this proposal with his ''Memorial and Remonstrance against Religious Assessments.'' This document—written 16 years before the Bill of Rights was adopted—reveals the earliest origins of the concepts behind the first amendment: Madison expressed his opposition to Government involvement in religion because he believed such involvement would interfere with citizens' right of free exercise. Madison also believed that the right of religious freedom was as important as freedom of the press, trial by jury, and the right to vote.

According to Madison, his Memorial was so widely accepted that Henry's proposal failed and Virginia instead enacted Thomas Jefferson's ''Bill for Establishing Religious Freedom in Virginia.''

In this bill, Jefferson expressed his belief that religious liberty is necessary to ensure that individuals are not forced to support religious opinions with which they disagree, to practice faiths they find abhorrent, or to voice allegiance to one faith over another, and:

> To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful.

During their Presidencies, Jefferson and Madison had the opportunity to illustrate their understanding of the first amendment to the Constitution.

In 1801, the Danbury Baptist Association wrote a letter to President Jefferson because it feared that the State of Connecticut would establish the Congregationalist Church as the official religion.

Jefferson responded to the Danbury Baptist Association with a letter on January 1, 1802, in which he reaffirmed his belief that each individual has the right to hold whatever opinion he or she may choose and that the Government should not interfere in religion. This reply contained his now-famous view that the purpose of the first amendment was to build a—in Jefferson's words—''wall of separation between church and state.''

President Madison, in his 8 years in office, vetoed only seven bills—two of which he believed violated the Establishment Clause of the first amendment.

In 1811, Congress passed a bill entitled ''An act incorporating the Protestant Episcopal Church in the town of Alexandria in the District of Columbia.'' This bill would have enacted the rules of the church as a matter of law, thereby giving legal force to the provisions of the church's constitution.

Madison believed that even supporting churches in their charitable functions would give religious organizations too much power in public and civic affairs. He wrote that the bill would be ''precedent for giving to religious societies as such a legal agency in carrying into effect a public and civic duty.'' Think of those words in the context of the proposal before us.

Madison also vetoed a bill ''An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting House, in the Mississippi Territory.'' This bill would have given a Baptist Church specific Federal Government property for the church's use.

Madison believed that:

> reserving a certain parcel of land of the United States for the use of said Baptist Church comprises a principle and precedent for the appropriation of funds of the United States for the use and support of religious societies, contrary to the article of the Constitution which declares that ''Congress shall make no law respecting a religious establishment.''

Thanks to Jefferson and Madison, first amendment protections have made America the most tolerant society in the world—a tolerance many of our critics around the world neither understand nor accept. They live in nations where government and religious belief are so closely entwined that diversity of creed is officially discouraged, if not prohibited.

Each of us, when we return home, can drive through our cities and see a Protestant church down the street from a Catholic church, next to a Jewish synagogue which is not too far from a Muslim mosque, and perhaps across the street from a Sikh Gur-dwala. Some churches even share their facilities with congregations from other religious and ethnic groups. To me, this is proof positive that the wisdom of the first amendment is alive and well in America today.

Although some may argue that the faith-based initiative does not ''establish a religion,'' the Supreme Court has ''long held that the First Amendment reaches more than classic, 18th century establishments.''

Indeed, the Supreme Court has examined the history of the first amendment and has come to the same conclusion that I have reached:

> For the men who wrote the Religion Clauses of the First Amendment the 'establishment' of a religion connoted sponsorship, financial support, and active involvement of the sovereign in religious activity.

That comes from the case of Walz v. Tax Commission in 1970.

This is one principle that President Bush seems to be willing to accept. I am heartened that the White House publication Guidance to Faith-Based and Community Organizations on Partnering with the Federal Government is clear that faith-based organizations cannot use any part of a direct Federal grant to fund religious worship, instruction, or proselytization. Such activities must be separate in time or location.

The President also agrees that faith-based organizations cannot discriminate against beneficiaries or potential beneficiaries of a social service on the basis of religion.

However, one area where we clearly diverge is the issue of employment discrimination on the basis of religion.

The Civil Rights Act of 1964 prohibits most public and private employers with 15 or more employees from discriminating in their employment practices on the basis of race, color, national origin, sex, and religion.

However, religious employers have an exemption with respect to religious discrimination, which was expanded in 1972.

I will read the current exemption:

This subchapter shall not apply . . . to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

In 1987, the Supreme Court upheld this title VII religious exemption in the case of Corporation of Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos.

I support this right of religious organizations to use religious criteria in hiring people to carry out their religious work. I have no quarrel with the title VII religious exemption. It makes sense for people of common faith to work together to further their religion's mission.

At the same time, I recognize that discrimination ''on the basis of religion'' can often include discrimination based on other factors that are prohibited by civil rights laws, such as race, ethnicity, and sex.

Dr. Martin Luther King, Jr., observed that the hour of worship is one of the most segregated hours in American society. Sadly this is still true today, but many people of similar racial or ethnic backgrounds do prefer to worship together, and there are churches throughout this Nation that target only certain races or ethnic groups.

So, unfortunately, allowing religious organizations to hire only members of their own religion, in many cases, can also mean hiring only members of a certain race or ethnic background.

For example, if employment is limited to the co-religionists of the recipients, how many African Americans will be hired by Orthodox Jewish groups? How many white people will the Nation of Islam employ as security guards in public housing? And what of the many Protestant groups that are overwhelmingly White or overwhelmingly Black or overwhelmingly Hispanic?

The courts also have read the title VII exemption very broadly to allow discrimination on the basis of religion to include the religion's ''tenets and teachings.'' This broad reading has resulted in situations where people of faith who do not necessarily follow the accepted lifestyle or private behavior of that religion have lost their jobs.

Here are some examples of how this law discriminates against people's everyday behavior in addition to their religious beliefs:

In the case of EEOC v. Presbyterian Ministries, Inc., a Christian retirement home fired a Muslim receptionist after she insisted on wearing a head covering as required by her faith.

The Church of Jesus Christ of Latter-Day Saints fired several employees because they failed to qualify for a ''temple recommend,'' that is, a certificate that they were Mormons who abided by the church's standards in such matters as regular church attendance, tithing, and abstinence from coffee, tea, alcohol, and tobacco.

This exemption, unfortunately, has had a particularly harsh impact on women and people of different sexual orientation. Here are some examples of how courts have interpreted this exemption to allow employment discrimination against women and gays under the current title VII exemption:

Numerous Christian schools fired female teachers for having extramarital sex or committing adultery; upheld by the court. A Catholic school fired a teacher who remarried without seeking an annulment of her first marriage in accord with Catholic doctrine; upheld by the court. A Catholic school fired a teacher for marrying a divorced man; upheld by the court. A Catholic university refused to hire a female professor because her views on abortion were not in accord with Catholic teaching; upheld by the court. A Baptist nursing home fired a student services specialist after she was ordained a minister in a gay and lesbian church that advocated views on homosexuality ''which were inconsistent with the [school's] perception of its purpose and mission''; upheld by the court. A church terminated the employment of an organist on the grounds that his homosexuality conflicted with the church's belief; upheld by the court.

I regret that these may be unintended discriminatory consequences today under the title VII exemption where religious organizations hire people using money raised by the church from its own congregation. But what of the case we are discussing? We are not talking about a situation where churches are spending their own money for their own religious purposes and following their own employment codes and practices under the title VII exemption. We are talking about opening up a new world where tax dollars are taken from the treasury and given to these same churches. What if the money is not raised by the congregation or coreligionists, but the money is being raised from the taxpaying public? What standard should we use?

Most scholars agree it is an open legal question as to whether a religious organization can take taxpayer money and use it to discriminate in hiring employees on the basis of religion. It would seem to me that the obvious answer to this question is no. Any other response would result in taxpayer-funded discrimination. I will return to this question and the reasons for my answer after examining asking how this issue fits into the broader picture of the President's faith-based initiative.

The faith-based initiative has been marketed as a proposal to ''level the playing field'' for religious organizations that seek government funds to pay for social service programs. However, it appears that the supporters of the initiative do not want to level the playing field; they want to create a special set of rules for religious organizations which would result in special treatment that other nongovernmental organizations do not currently enjoy.

President Bush has demonstrated, through his Executive orders and agency regulations, that his faith-based initiative goes far beyond religious icons, religious names, religious language in chartering documents or religious criteria for membership on governing boards. I do not object to any of those stated goals which I have heard from the Senator from Pennsylvania and the Senator from Connecticut as well as the President. I have seen the enforcement of rules and standards which I think have gone way too far.

I can think of my own hometown of Springfield where there is a long-simmering controversy still brought up regularly about whether a teacher could come in and teach a driver training course at the Catholic high school if that teacher were paid for out of public school funds and that Catholic high school and its classroom had a crucifix on the wall. It rubbed a lot of people of my Catholic religion the wrong way, that people would argue that the mere presence of that crucifix was somehow offensive or violated the law. That argument goes to the extreme. I do not hold those views. I support the position stated time and again by the Senators from Pennsylvania and Connecticut that we ought to draw a more reasonable line. The House of Representatives, with mottos on the walls ''In God We Trust,'' with our currency reflecting that, with chaplains in the House and Senate, we can state a reasonable standard that does not violate the basic freedom of religion or establishment clause of our Constitution. But I do object to the administration bypassing Congress to write one set of rules for secular organizations and another for religious organizations.

For example, all recipients of government grants currently are required to abide by a host of regulatory requirements, including filing IRS documentation and complying with all State and local laws. Supporters of the faith-based initiative would like to exempt religious organizations from complying with these important regulations, such as those dealing with health and safety. Explain that for a moment.

If in the State of Illinois or my city of Springfield someone wants to run a daycare center and we have decided, for the safety of the children in the

daycare center, there should be perhaps a sprinkler system, a fire alarm, or a fire escape, certain doors so that kids can get out in case of emergency, why, if this becomes a faith-based childcare center, should we reduce or limit that same application of health and safety standards? It doesn't make sense. One of the amendments which needs to be offered as part of this conversation on faith-based initiatives will address that.

Take a look at the Teen Challenge substance abuse program which President Bush has mentioned many times. In 1995, the Texas Commission on Alcohol and Drug Abuse threatened to close Teen Challenge after issuing a 49-page list of violations of State health and safety codes. The list included unlicensed counselors, food preparation that created a health hazard, a broken smoke detector system, and exposed wires and electrical outlets. Then-Governor Bush responded by exempting faith-based drug treatment programs from all of the State health and safety regulations that were followed by their secular counterparts.

I don't know how you could reach that conclusion. It is one thing to be imbued with a religion; it is another thing to ignore the obvious. If there is a terrible accident or fire or some disaster, children in faith-based institutions deserve the same level of legal protection as those in institutions run as businesses.

This special treatment was not limited to drug treatment programs. Faith-based childcare centers and residential children's homes could use an alternative accreditation program that would exempt them from State licensing. The special treatment for these alternatively accredited facilities was that there were no unannounced inspections of the facilities as required by State law. As a result, the rate of confirmed abuse and neglect at alternatively accredited facilities was 25 times higher than that of State-licensed facilities. Whom are we doing a favor for by exempting the faith-based charity from standards of unannounced inspections to make certain that they are living up to the letter of the law?

The complaint rate at alternatively accredited facilities was 75 percent compared to 5.4 percent at State-licensed facilities. Due to these staggering outcomes, this accreditation program sunset in 2001 and has never been renewed.

The White House has also given indications it may provide special treatment to religious organizations by exempting them from State and local laws addressing employment discrimination. I have a great deal of respect for the Salvation Army. They do wonderful work, not only in the United States but around the world. But they had a rather embarrassing incident in July of 2001 when an internal report was discovered that stated their group had received a ''firm commitment'' from the Bush White House to protect religious charities from State and local laws regarding sexual orientation discrimination and domestic partner benefits. I hope that is not the goal of the Bush White House in pushing this faith-based initiative.

Over the past 2 years, President Bush and his faith-based initiative have repeatedly eroded 200 years of carefully protected separation between church and state. In what the Washington Post called ''faith-based by fiat,'' President Bush signed Executive Order 13279, in December of 2002, to overturn principles of nondiscrimination in Federal contracts that have stood for over 60 years.

The House of Representatives is currently considering the reauthorization of the Workforce Investment Act. The legislation has been marked up in the House, and it would repeal 20 years of civil rights protections against religious discrimination. The House also has held hearings regarding the reauthorization of the Corporation for National and Community Service, known as AmeriCorps. In its proposed legislation, the House would repeal a decade of civil rights protections against religious discrimination in employment that were signed into law by President Bush's father.

Finally, the Department of Housing and Urban Development has proposed rules to allow religious organizations to use Federal funds to build centers where religious worship is held as long as parts of the building are also used for social services.

Supporters of the faith-based initiative want to know why we are raising these issues now, when Congress included charitable choice provisions in legislation we passed as far back as 1996. The difference is this: Then-President Clinton made it clear, as part of the technical corrections package to the welfare reform bill, that nothing included therein would change the fundamental protections against religious discrimination which were currently in the law. President Clinton did that as well in the reauthorization of Community Services Block Grant Programs in 1998 and the reauthorization of the Substance Abuse Mental Health Services Act in 2000. Unfortunately, in this debate, that same assurance has not been given.

I want to go to a point which really gets to the heart of the issue. It is a difficult one. It is one for which I don't have an answer. When you talk about faith-based initiatives, you are talking about religion in America. The obvious and important question is: What is a religion? There are many that we readily will recognize as being established religions of all different denominations. But when it comes to the definition of religion, many people self-define their beliefs and activities as religion.

Jim Jones led people to a mass suicide in Guyana, and David Koresh and his Branch Davidians in Waco, TX, have become scarred in the American memory as tragic reminders of what happens when people are blindly led by fanatics who use the guise of religion for their own personal, violent agenda. I represent a State which is the home of the so-called World Church of the Creator, which has to be one of the most perverted extremist groups in America that I know of, which claims itself to be a religion. On its Web site, the so-called ''Reverend'' Matt Hale—who graduated from law school but was not allowed to be licensed under the rules and practices of the bar in Illinois—proudly welcomes visitors, saying:

> We are a religious, nonprofit organization, with our world headquarters in the State of Illinois. At the time of this writing, we have 24 regional and local branches of the church and members all over the world.

What are the tenets of his church and religion, of this World Church of the Creator? Here is what he says in his own words:

> After 6,000 years of recorded history, our people finally have a religion of, for, and by them. Creativity is that religion. It is established for the survival, expansion, and advancement of our white race exclusively. Indeed, we believe that what is good for the white race is the highest virtue, and what is bad for the white race is the ultimate sin.

I cannot think of any more hateful rhetoric spewed in the name of religion. That is exactly what is happening today. Recently someone challenged their dismissal of employment because they were members of this church. The court came back and said it is a religion and has to be treated as such for the purpose of the Civil Rights Act of 1964.

So here we come to a point where we are talking about giving Federal dollars to those who call themselves religions for the purpose of performing social services. What is the threshold question we should ask? Is this truly a religion or is this something else in the guise of a religion? What are we doing with taxpayer dollars? Would we want to spend $1 supporting the racist views of the World Church of the Creator because they tell the Federal Government they have a program to deal with drug abuse or to provide childcare services in central Illinois? I hope not. But once you have opened this door and start talking about Federal dollars given to religion for social services, you open up a can of worms, a set of questions and great challenges that we have not faced for many years, if ever.

I am worried as I look across the various religions of the world, not just those purporting to be Christian but some who are members of different religions that have taken what in fact are extreme views.

It was only a little more that a year ago that the people of Afghanistan were still suffering under the violent and oppressive regime of the Taliban, which suppressed and punished its people in the name of Islamic fundamentalist religious beliefs.

Thanks to the leadership of the United States and our military, we

have now liberated the Afghan people from the Taliban, which, like Al Qaeda, had distorted the peaceful religion of Islam for their own destructive purposes.

The leaders of the Taliban were trained in ''madrassas,'' which are characterized as religious schools. But those familiar with these institutions often call many of them ''jihad factories'' because of the extreme nature of their ''religious'' indoctrination and the militancy they train.

At madrassas, the Taliban preached that freedom afforded to women is the main reason for social degradation, and that the best place for women was inside the four walls of their homes—cut off from education and cut off from opportunity.

They also preached that television is the ''spark of hell'' responsible for moral degradation, and watching it or listening to music was un-Islamic and sinful. And when they came to power, the Taliban put all of these distorted lessons to practice against their own people.

The Taliban is perhaps the most recent example of extremism in the name of religion that we have witnessed.

But since the 1979 Islamic revolution in Iran, we have seen numerous radical Islamic fundamentalists utilize their religious ideology as the driving force behind the most active Middle Eastern terrorist groups and state sponsors.

For example, Hizballah of Lebanon calls itself the ''Party of God'' although there is nothing godly about its terrorist activities.

Hizballah was founded in 1982 as a faith-based organization by Lebanese Shiite clerics who were inspired by the Islamic ideology of Iran's Ayatollah Khomeini. Its original goal was to establish an Islamic republic in Lebanon. But many of the Shiite Muslims who rule Hizballah studied in Iran's theological seminaries while receiving terrorist training there as well.

The trainings paid off as this terrorist group became responsible for the detention of most, if not all, American and other Western hostages held in Lebanon during the 1980s and early 1990s. Eighteen Americans were held hostage during that period, three of whom were killed.

Hizballah is also suspected in the April 1983 suicide truck bombings of the U.S. Embassy in Beirut and the U.S. Marine barracks in October 1983 that killed 220 Marine, 18 Navy and 3 Army personnel.

And Hizballah is also suspected to have been behind the hijacking of TWA Flight 847 in 1985, and the killing of a Navy diver, Robert Stethem, who was on board.

Hamas, Al-Jihad, Abu Sayyaf, and Islamic Movement are some of the other better-known extremists that argue their organizations are based on Islamic religious beliefs.

There are radical Jewish groups as well, such as Kach and Kahane Chai. These two Jewish movements seek to expel all Arabs from Israel and expand Israel's boundaries to include the occupied territories and parts of Jordan. Founded by extremist Rabbi Meir Kahane, these groups also argue for strict implementation of Jewish law in Israel.

I do not mean to suggest here that the President's faith-based initiative will necessarily lead to such religious extremism.

At the same time, I want to make it clear that this is not an easy question. To dismiss it simply as a question about whether or not we are tolerant of religion is one thing, but the question of whether we are going to subsidize religious belief that reaches the extreme is really something else.

The important message we must send is that religious organizations that take taxpayers' money should not be able to use those funds to discriminate in hiring employees on the basis of religion. The American people have been asked their opinion on this issue. The response is interesting.

According to the Washington Post, in a 2001 survey conducted by the Pew Research Center:

> When people were asked whether ''religious groups that use Government funds [should] be allowed to hire only those who share their religious beliefs,'' 78 percent said ''no'' and 18 percent said ''yes''—a degree of objection that so surprised researchers that they repeated the question three different ways. . . .

They received the same answer time and time again. On the other hand, the Bush administration believes that Government-funded discrimination in hiring on the basis of religion is acceptable.

According to a U.S. Department of Justice Office of Legal Counsel memorandum on June 25, 2001:

> We conclude, for the reasons set forth more fully below, that a faith-based organization receiving direct Federal aid may make employment decisions on the basis of religion without running afoul of the Establishment Clause.

In the only case that directly addressed whether the Title VII exemption applies to a position funded by government funds, the Southern District Court of Mississippi ruled that it did not.

In the 1989 case Dodge v. Salvation Army, Jamie Dodge was employed by the Salvation Army in its Domestic Violence Shelter as the Victims Assistance Coordinator.

After the Director of the shelter saw Ms. Dodge using the Salvation Army's copy machine, Ms. Dodge admitted that she had made copies of manuals and information on Wiccan rituals.

Soon after making these admissions, Ms. Dodge was terminated.

She filed a complaint that because the shelter where she worked received substantial federal and state funds, the Title VII exemption could not be applied to her.

The District Court ruled that ''even though the religious exemption does permit the Salvation Army to terminate an employee based on religious grounds, the fact that the plaintiff's position as Victims' Assistance Coordinator was funded substantially, if not entirely, by federal, state, and local government, gives rise to constitutional considerations which effectively prohibit the application of the exemption to the facts in this case.''

Furthermore, the Court held that ''Based on the facts in the present case, the effect of the government substantially, if not exclusively, funding a position such as the Victims' Assistance Coordinator and then allowing the Salvation Army to choose the person to fill or maintain the position based on religious preference clearly has the effect of advancing religion and is unconstitutional.

Despite this ruling, the issue is considered an open legal question because the case was not considered beyond the District Court and there are several other cases which at least partially address this question.

However, this is not just a legal question or a hypothetical line we are drawing in the sand.

One of the cases I would like to point out is a case that really talks about discrimination firsthand. It is the case of Alan Yorker and his experience with United Methodist Children's Home in Decatur, GA. The children's home, which receives almost half of its money from Government sources, provides residential group foster care for 70 young people, many of whom are in State custody.

Mr. Yorker responded to an advertisement in the Atlanta Journal-Constitution for a position at the home. As a psychotherapist with over 20 years experience counseling young people and their families and over a decade of experience teaching in Emory University professional schools, the home determined that his credentials placed him among the top candidates for the position. He was rushed in for an interview, where he was required to disclose in an application form his religious affiliation, his church and minister. Mr. Yorker, a Jew, supplied the names of his synagogue and rabbi. During the interview, an administrator noted that Mr. Yorker was Jewish and told him that this children's home doesn't hire people who are Jewish. He was shown the door.

Let me tell you that this didn't happen decades ago; this is of recent vintage. The same administrator told another employee that it is the home's practice to throw the resumes of applicants with Jewish-sounding names in the trash. The Yorker name got past her.

Ironically, Yorker has not always been the family name. Alan Yorker's Jewish paternal grandfather, Harry Monjesky, spent many years as a conductor on the New York Central Railroad. When the railroad began to face tough times, Jewish and African-American workers were singled out for layoffs first, regardless of their seniority.

Mr. Monjesky was fired and left without a livelihood. Several years later, when Alan's father reached adulthood, he changed his name to Yorker. He wanted to make sure that his children would be judged by their merit and not by their surname or private religious beliefs.

That is how Alan Yorker's resume landed at the top of the pile instead of the home's trash bin. And nearly a century after his grandfather was turned away by the Railroad because of his religion, Alan Yorker faced the same discrimination when applying for a government-funded position.

I will conclude by saying that these are examples of what is being done in the name of religion. For it to be done by a religious organization to achieve a religious goal, with funds raised by coreligionists, is certainly allowed in title VII of the Civil Rights Act. To say, however, that we are going to open the Federal Treasury and provide millions of dollars to religions for social services, and then approve of their discriminatory activity in the name of religion, is branching out in a direction that our Founding Fathers could never have considered, let alone condoned.

In light of this complex constitutional issue, I think it is fair to ask why we even need a faith-based initiative. President Bush believes it is necessary because ''people should be allowed to access money without having to lose their mission or change their mission.'' However, current law already permits groups that are affiliated with religious entities to provide social services with Government funding.

Catholic Charities, Lutheran Social Services, Jewish Federations, and many other religious organizations have received—and continue to receive—taxpayer funds from the Government to provide much-needed services that our Government is often unable and unavailable to provide.

These organizations access Federal funds without changing their missions. For example, Catholic Charities has a publication entitled ''10 Ways Catholic Charities are Catholic.'' At the same time, Catholic Charities in Chicago, which I am proud to represent, also issues the following statement on its Web site:

> Catholic Charities employs more than 3,000 dedicated, compassionate and professional men and women, regardless of race, religion, or ethnic background.

Many Catholic Charities across the Nation have similar equal opportunity statements.

As thousands of Americans visit our Nation's Capital, many will stop at the Jefferson Memorial and read the following inscription, in the words of Thomas Jefferson:

> No man shall be compelled to frequent or support any religious worship ministry or shall otherwise suffer on account of his opinions in matters of religion.

These words, from Jefferson's ''Bill for Establishing Religious Freedom in Virginia,'' are as relevant now as they were in 1785. Although we don't debate the faith-based initiative proposal in its entirety today, I look forward to the opportunity to continue to protect our historic balance in the relationship between church and state.

I yield the floor.

Mr. KENNEDY. Mr. President, the CARE Act is a significant bipartisan effort to create improved opportunities for charitable giving. That is a goal I wholeheartedly support. Charitable giving is a continuing reaffirmation of the deeply held community spirit of the American people. It recognizes our responsibility to help the less fortunate, and the work of charitable organizations is essential in protecting the well-being of millions of our fellow citizens.

The key provision of the bill will at long last allow those who do not itemize their deductions to receive a tax deduction for their charitable contributions. This deduction will benefit millions of low and middle-income families who are already making significant charitable contributions each year, and it will encourage even more charitable contributions in future years.

The agreement to remove the controversial title 8 makes sense, so the bill can move quickly through Congress. All of us share the goal of enhancing community-based services for low-income people through public, private, and faith-based organizations. Our concern with title 8 was that it failed to see that faith-based organizations do not use these public funds to discriminate on the basis of religion.

Many of us continue to be concerned about a separate development on the discrimination issue. The President has issued an Executive order repealing more than 60 years of Federal protections against religious discrimination in publicly funded programs. Under the President's order, organizations can receive public funds and then refuse to hire persons because of their religion, their marital status, or their sexual orientation. As the Senate considers future legislation to support and fund community-based organizations that provide social services, including faith-based organizations, I look forward to working with my colleagues to see that civil rights protections are safeguarded.

I am pleased that the CARE Act restores funding for the social services block grant. Congress made a promise in 1996 to do so, and it is essential to keep that promise, so that vulnerable Americans can continue to rely on the funding in the years ahead.

For too long, Congress has ignored its responsibility to those most in need. Since 1995, annual funding for SSBG has been cut by more than $1 billion, from a high of $2.8 billion to the current level of $1.7 billion. This bill will restore the amount to $2.8 billion in the next fiscal year.

The social services block grant pays for critical services for 11 million children, families, seniors, and persons with disabilities each year. In 2000, $683 million in these funds was used to support child protective services, foster care, and adoption services alone. Twelve percent of the funds was used for disability services, and $181 million was used to provide services to the elderly. This program is the only Federal source of funding for Adult Protective Services, which provides assistance and protection for elderly and disabled adults who are victims of abuse.

Restoring these funds is especially important now, when most States are cutting and even eliminating the very services and programs that the social services block grant was enacted to support. The economic downturn, escalating State deficits, and reduced funding for social services, has left State program officials with the impossible task of deciding who to help and who to turn away.

We must do all we can in Congress to ensure that States have the resources they need to support their most vulnerable citizens. I commend my colleagues on the Finance Committee on the provision to restore SSBG in the CARE Act for the coming year. Our goal now is to see that we keep doing that in future years as well.

Today's action should not be just a temporary, 1-year fix. We owe a lasting commitment to the children, families, and seniors who need our help the most, and I look forward to working with my colleagues to achieve this goal.

Mr. JEFFORDS. I would like to briefly discuss one of the provisions in the CARE Act, an incentive that will encourage the conservation of environmentally sensitive land. This conservation incentive will allow landowners who own environmentally sensitive land to exclude part of the gain they realize if they sell their land to conservation organizations for the purpose of conservation.

We are losing our farms, ranches, and open spaces at an alarming rate. Many landowners would like to transfer their land to a conservation organization that would conserve it or preserve its original use. For many of them, however, donating land to a conservation organization is not an option. Their land is an important asset, the sale of which will yield an important source of income.

The CARE Act creates a new tax incentive for these ''land rich/cash poor'' taxpayers who cannot take advantage of the current law's charitable deduction. This new incentive is an exclusion from income for one-fourth of the gain that taxpayers realize upon a sale of land, when the land is sold for conservation purposes, to a conservation organization. The exclusion will also be available for a transfer of a partial interest, such as a conservation easement. With this provision, landowners would pay less tax when they transfer land for conservation purposes.

I first introduced a bill similar to the CARE Act provision in the 106th Congress. In 2000, both Presidential candidates endorsed this approach. This year, and in the previous 2 years, a provision like the conservation exclusion in the CARE Act has been included in the President's budget proposals. It has also been endorsed by a diverse range of interest groups, including the Farm Bureau, Ducks Unlimited, the Land Trust Alliance, the American Farmland Trust, and the Nature Conservancy.

My bill—and President Bush's budget proposals—called for a 50-percent exclusion. If, as I believe, this tax incentive proves to be an effective way to encourage conservation, I hope that we will someday be able to increase the exclusion. This new tax incentive will mean more conservation with no new appropriations, and no new restrictions on land use. It adopts a new, market-based approach to conservation, using funds that have either been privately raised or set aside by State and local governments.

Mr. LUGAR. Mr. President, I rise today in support of the Charity, Aid, Recovery, and Empowerment Act. I am proud to be an original cosponsor of this important legislation, which would encourage more citizens to contribute to non-profit programs and institutions. I want to commend my colleagues, Senators SANTORUM and LIEBERMAN, for introducing this important bipartisan legislation. The CARE Act is designed to promote charitable giving at a time when charities report increasing demands on their services along with a decline in contributions.

After the tragedy of September 11, charitable contributions were greatly deminished. Donations to charitable organizations dropped last year by 2.3 percent and they are lagging even further behind this year. At the same time, more people are turning to charities for help because of job lay-offs, health concerns, and the needs of our children. The tax incentives contained in the CARE Act to encourage charitable giving are needed now more than ever.

Included in this bill is language to encourage charitable giving by allowing a tax deduction for charitable giving for non-itemizers. Eighty-six million Americans do not presently itemize their deductions on their tax returns. This provision would allow for a tax deduction up to $250 for individuals and $500 for couples. Organizations such as the American Red Cross, the March of Dimes, and other charitable organizations that rely on low dollar donations believe that they will be able to generate more donations if everyone could take a deduction regardless of which form they file with the Internal Revenue Service.

The ability to roll over excess funds from Individual Retirement Accounts to a charitable organization or university is also a part of this legislation. Many organizations and universities benefit from planned gift revenues. The IRA rollover provision will allow charities to increase the number of planned gifts, while being able to diversify their planned gift portfolios.

I have been a supporter of Individual Development Accounts and was pleased that this initiative to expand these accounts is included in the bill before us. These accounts are made up of dollar-for-dollar matching contributions up to $500 from banks and community organizations to be used by lower-income working families to buy a home, start or expand a small business, or pay for college.

I believe that one of the most important provisions that has been included in this bill is the Hunger Relief Tax Incentive Act. This important provision allows for expanded charitable tax deductions for contributions of food inventory to our nation's food banks. Demand on food banks has been rising, and these tax deductions would be an important step in increasing private donations to the non-profit hunger relief charities playing a critical role in meeting America's nutrition needs.

As I have traveled around Indiana, I have visited many food banks in our state. They have confirmed the results of a study by the U.S. Conference of Mayors that showed demand for food at food banks has risen significantly. The success of welfare reform legislation has moved many recipients off welfare and into jobs. In many states, welfare roles have been reduced by more than half. But we need to recognize that these individuals and their families are living on modest wages. As the states' unemployment rates have risen, so has the demand placed on the food banks and soup kitchens.

According to the Conference of Mayors survey, during the last year, requests for emergency food assistance has increased one hundred percent. Forty-eight percent of the people requesting emergency food assistance are either children or their parents. The number of elderly persons requesting food assistance has increased by ninety-two percent.

Private food banks provide a key safety net against hunger. According to an August 2000 report by USDA, 31 million Americans are living on the edge of hunger.

USDA statistics show that up to 96 billion pounds of food go to waste each year in the United States. If a small percentage of this wasted food could be redirected to food banks, we could make important strides in our fight against hunger.

The food bank provisions under the CARE Act would allow farmers and small business owners to take a deduction when they donate food to their community food bank. Currently this deduction is available to large corporations but not to small businesses. This approach would stimulate private charitable giving to food banks at the community level.

Each citizen can make an important contribution to the fight against hunger at a local level. I have been especially impressed by the remarkable work of food banks in Indiana. In many cases, they are partnered with churches and faith-based organizations and are making a tremendous difference in our communities. We should support this private sector activity, which not only feeds people, but also strengthens community bonds and demonstrates the power of faith, charity, and civic involvement.

I would like to thank Senators SANTORUM, LIEBERMAN, GRASSLEY, and BAUCUS for their efforts in helping America's charities meet their funding goals, and to those individuals who take advantage of the services provided by these groups.

Mr. GRAHAM of Florida. Mr. President, I am pleased that the Senate is considering the CARE Act today. By enacting this legislation, Congress acknowledges the inherent good in millions of Americans.

The bill includes a number of changes to the tax rules that will make it easier for individuals to donate to the tens of thousands of worthwhile charities that operate across this nation. By making the charitable deduction available to those taxpayers who don't itemize their deductions, married couples can deduct as much as $500 of the contributions they make to charity.

Provisions in the legislation also make it easier for individuals to donate funds they have saved in an IRA. Rather than having to report this amount in income and then take a commensurate deduction for the contribution, the new rule allows the funds to be transferred directly to the charity.

The bill also eases the burden of gaining tax benefits for those individuals who wish to make donations of food, books, and scholarly compositions to charity.

While these charitable giving incentives are useful to many citizens and the charities they desire to help, this legislation may be even more important because it contains strong provisions that will help the Internal Revenue Service and the Nation's courts crack down on abusive tax shelters.

In his last report to the IRS Oversight Board, the IRS Commissioner Charles Rossotti identified abusive corporate tax shelters and promoters of tax schemes of all varieties as among the most serious compliance problem areas. In addition to the revenue lost by the Federal Government—funds that could be used for defending the homeland, education, and protecting the environment—the proliferation of these schemes represents in Commissioner Rossotti's words ''a failure of fairness to the millions of honest taxpayers whose commitment to paying their taxes is based on the principle that the IRS will act if they or their neighbors do not pay their fair share.''

This administration has been slow to embrace measures that crack down on those who manipulate the Tax Code to

avoid paying their taxes. Despite the previous administration having identified the proliferation of tax shelters as a large and growing problem as far back as 2000, President Bush's initial budget contained no legislative recommendations to stem the proliferation of tax shelters.

Only after it became clear that Congress was going to address this issue, did the Bush Administration take notice. Even then, their approach to combating this problem was, at best, timid. The Bush administration's solution was to continue to rely solely on the Service's ability to detect an abusive tax shelter from within the minutiae of a taxpayer's tax return. If the Service was fortunate to uncover a tax shelter, it could then initiate steps to shut it down. This is a difficult and time-consuming process for the IRS to undertake.

While disclosure of these schemes by taxpayers and promoters can be useful in combating the proliferation of tax shelters, the IRS also needs some additional tools. This is why the bill includes a statutory requirement that transactions utilized by taxpayers have an economic rationale beyond the creation of tax benefits, commonly referred to as the ''economic substance doctrine''. The bill backs up this new requirement with stiff penalties for taxpayers who engage in such transactions.

It is a simple requirement. You don't even need to be a tax attorney to understand it. Simply put, it would require that transactions conducted by taxpayers have a business purpose. What does that mean? The proposal requires that a taxpayer have a reason other than the creation of tax benefits for engaging in a transaction.

A cursory review of the recent Joint Committee on Taxation report on the tax returns of Enron Corporation highlights the dire need for this legislative change. The Joint Committee on Taxation found that Enron paid total federal income taxes for the period 1996 through 2001 of $63 million. During this same period Enron reported to investors that it had profits of nearly $6 billion. How was Enron able to paint such obviously contrasting pictures?

According to the Joint Committee on Taxation's report, Enron transformed its tax department from an administrative function to a profit center. Enron spent millions of dollars on tax attorneys and shelter promoters who helped it cook up transactions that had no purpose other than to artificially reduce its tax liability.

According to the JCT Report, these transactions:

> demonstrate the need for strong anti-avoidance rules to combat tax-motivated transactions that might satisfy the technical requirements of the tax statutes and administrative rules, but that serve little or no purpose other than to generate income tax or financial statement benefits.

This bill provides those strong anti-avoidance rules, and I hope they will become law sooner rather than later.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first of all, I thank Senator BAUCUS for the compliments he gave me. More importantly, it emphasizes, as I have tried to indicate, the great cooperation I have had from him. Legislation such as this has some controversial provisions in it, and you don't get a piece of legislation such as this to the floor without the bipartisan cooperation that has been exhibited. I thank him for that.

AMENDMENT NO. 526

(Purpose: To provide a Managers' amendment)

Mr. President, I send an amendment to the desk and ask for its immediate consideration. This is what is referred to as the managers' amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

> The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. BAUCUS, proposes an amendment numbered 526.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further 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.'')

Mr. GRASSLEY. Mr. President, I ask unanimous consent that all time be yielded back on the amendment.

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

Mr. GRASSLEY. Mr. President, I further ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 526) was agreed to.

Mr. GRASSLEY. Mr. President, I have already complimented Senator SANTORUM and Senator LIEBERMAN for their joint work on most of the provisions of this legislation. I am happy to have Senator SANTORUM, who is also a member of the Senate Finance Committee, manage a bill that he has been central to getting those provisions into law.

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. SANTORUM. 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. SANTORUM. Mr. President, I thank the Senator from Iowa, the chairman of the Finance Committee, for his kind words and his cooperation. I thank the ranking member of the committee for his cooperation.

There are some things in this legislation that he is not particularly enamored with, but he was most cooperative and helpful in moving the legislation forward. We are now at a point where we are within 24 hours of passing the legislation. Most of all, I thank my colleague from Connecticut, Senator LIEBERMAN, who has been a faithful partner—to use a play on words—a faithful partner in putting this initiative together.

We have worked together closely with the President, who has been truly the motivating force to try to provide some ammunition to the armies of compassion out there on the front lines every day, fighting for hope and opportunity for the millions of Americans who have yet to realize their dreams in dealing with the problems that confront them.

The President has, through his faith-based initiative, been very clear in the role of charitable organizations, particularly people of faith within those organizations, to heal many of the ills that confront society. We are a society that, while very prosperous by any measure, even at a time of economic downturn that we are experiencing right now, we are still the wealthiest country in the history of the world. With that great wealth comes responsibility. So many people have taken up that responsibility, trying to meet and serve those who in a society of great wealth have experienced a multitude of problems in trying to achieve, both from the economic perspective but again, as I said before, pursuing their dreams.

This piece of legislation, while it is not everything the President requested—it is not all of his faith-based initiative—certainly gets at one of the most important components which is the one funding organizations which do charitable purposes or have charitable purposes.

No. 2, there is a provision called the Compassionate Capital Fund which is grants to small organizations with less than six employees or less than $½ million in funding, to go out and be able to, for the first time, compete for Federal funds.

A lot of these small organizations, most of which are faith based in nature, have not been successful in applying for government grants principally because they don't have the resources or the expertise to do so. When you are running a food pantry with one or two people, most of whom are part-time employees and many volunteers, you don't have the expertise to apply for Federal grant dollars or any other kind of grant dollars. You try to do what you can to make ends meet. This provides the kind of technical assistance necessary for a lot of smaller, mostly inner-city organizations that right now do not take advantage of the money available through the Federal Government, again, whether they are faith based or not.

Most of these organizations are faith based in nature so there is a faith component to this. As I will show later, many of the provisions in the act will have a disproportionate benefit to

charitable organizations which are faith based.

It doesn't accomplish a couple of the things the President set out to do. The issue Senator DURBIN spoke of earlier having to do with equal treatment, even though it is not in this legislation, let me address it very briefly and then maybe in more detail later on.

The whole concept of equal treatment is to allow those who have some element of faith within their organization—and there is a whole range across the charitable organization horizon. There is a whole range of faith, how much faith is integrated into those organizations—some are, to use the term, ''saturated'' or completely faith based in nature and expressively faith based in their programs, to the whole range of the other side which are those that are exclusively secular and even to some degree hostile to faith. In between there are gradations.

What the President has tried to do is instead of, as we do right now, as we did prior to the 1996 welfare reform, which allowed for charitable choice, in other words, for some government programs to go, these dollars to go to faith organizations, we sort of eliminated all these people of faith and all these organizations that have faith as a component of their mission or their vision or their program and left it to a very rather narrow category.

We, in 1996, on the Senate floor, with President Clinton signing it, said we would stop that discrimination against people of faith who wanted to act based on their faith to help their fellow man, as long as they didn't do certain things such as use it for faith worship or proselytizing, things that are not delivery of service.

We expanded greatly the range of faith organizations and nonfaith organizations. We expanded greatly those who can participate in government funds. When you do that, you run into some problems, some questions.

We have seen tremendous success and very few cases where problems have arisen, but in the areas where they have, there have been questions as to what government statutes apply, what provisions or regulations apply to faith organizations as opposed to nonfaith organizations.

One of the principal questions has to do with people's religious liberties and their ability to practice their faith bumping up against other rights. The one that the House of Representatives dealt with and the Senator from Illinois referred to had to do with the issue of employment and whether religious organizations which are provided with government funds can say that someone cannot work for that organization or they can refuse to hire someone who works for that organization who doesn't share that organization's values with respect to tenets and teaching of the faith which is expressed through their program.

One of the things I believe is essential to a lot of faith organizations, one of the reasons that faith organizations should be and need to be included in providing social services, is that a lot of these faith-based organizations don't just treat the symptom. They don't just treat the hunger, if it is someone who comes in for food assistance, or they don't just treat the dependency on drugs or alcohol, if someone comes in for addiction treatment. It doesn't just treat the problem of a lack of a GED or education, if someone comes in for education and training. What they do, because of their mission, they treat the mind. They treat the spirit and they treat the emotional well-being of this person. They treat the whole person. That is one of the keys to success in trying to truly turn people's lives around in a way that brings them back into productive life in America.

The key to these faith organizations is having people who have this mission they share out there teaching and bringing people in based on a certain core value structure. My argument is, we should not discriminate against people who have programs that are value laden—those values may be based on Scripture, the Old or New Testament or some other book—as opposed to saying we are going to discriminate against you because the values you have are based upon a religious belief, as opposed to an organization that is secular and its values are not based on a religious belief. I don't understand the reason for the discrimination. I don't believe it should exist.

I have had this discussion in brief, and we can talk more about it. I am sure we will. But having said all that, none of that is in this bill. We decided not to have this issue before us today because the need of getting resources out to the charitable organizations meeting human service and educational and other needs is, frankly, too urgent.

While we will debate this—and I am sure others will want to debate this issue—the true debate will wait for another day. That will be when the welfare reauthorization comes up. That is where this whole conversation of charitable choice and allowing faith-based providers to participate in government grants came about, back in 1996. And it is where we should continue that debate. I pledge to you that whether we get that bill or have that amendment in committee, or whether we bring it to the floor, this will be a topic of discussion and one I encourage all Members to think about and participate in.

But the charitable crisis is real, and that is why I agreed—and my colleagues in the House have been more than cooperative in putting together, hopefully, a compromise we can quickly get to the President's desk. We understand the crisis is real. Adjusted for inflation, charitable giving 2 years ago, in 2001, was 2.3 percent lower than in 2000. You have to remember at the end of 2001, unfortunately, we had to deal with the aftermath of 9/11, where there was a tremendous outpouring of giving. Even with that outpouring of giving, because of the sluggish economy, charitable giving fell again last year. Corporate giving fell again between 2000 and 2001 by 14.5 percent.

Again, we don't have the final numbers for 2002, but it was supposed to be off again last year. We saw the American Red Cross—I'll give a couple of examples. Their contributions declined anywhere from 20 to 60 percent; Salvation Army, off 5 to 10 percent; United Way, off 4 to 5 percent. We can go on and on. Colleges and universities saw a decline in the amount of charitable giving to their organizations, too.

So what we are doing is trying to respond in a comprehensive way. When I say that, I mean if you look at this bill, it is carefully crafted to provide incentives for all different types of givers—corporate, foundations, and individuals who don't itemize on their tax forms. By the way, if those with IRA rollovers want to give money to charitable organizations, they can do so without having to pay taxes under this legislation. So whether it is the small giver to, hopefully, the retiree, or someone who has a large IRA, or corporations who may want to give more money—all the way down the line to food donations, which is another area where the Senator from Indiana, Senator LUGAR, has a provision in this legislation that I think is very important, we have a provision that will encourage literally billions of dollars of additional food donations over the next several years by providing a tax incentive for corporations; but for the first time, partnerships, individual proprietors, and S corporations will be able to take the fair market value of their donation as a deduction—it is up to twice the cost of the basis of that food item—as a deduction for giving to charitable purposes.

We have about a billion pounds of food donated right now to people in America to help feed the hungry in America. It feeds about 26 million people. There are 96 billion pounds of food wasted in America. That is just an enormous amount. It is almost incomprehensible that we are talking about that amount. When you consider the fact that roughly 1 billion pounds of food donated helps feed 26 million, can you imagine, if we just increase it by a very small percentage, the amount of donated food there could be and how many people we could feed in America?

Senator LUGAR's legislation is included. We believe it will make a dramatic impact on hunger in America. There are a lot of other provisions.

I see my colleague from Indiana, Mr. BAYH. I will be on the floor for a while. I want to give him the opportunity to share with us some of the things he has been active with. He has a provision in the legislation he has shepherded through the process. I will have him talk about that. He has also been a champion and strong supporter of this legislation and the entire package from day one. I thank him for his support,

and I appreciate him coming to the floor to talk about this issue.

I yield the floor.

Mr. SANTORUM. Mr. President, I see the Senator from Indiana. I yield to him as much time as he may consume.

Mr. BAYH. Mr. President, I thank my colleague from Montana for his leadership, his friendship, and his devotion to this issue. I have listened with interest to his comments about the importance of ensuring that the incentives in the bill actually increase the charitable giving, as intended, and that we not inadvertently run a risk of lack of compliance. I concur with those sentiments and the need for a study to make sure we accomplish what it is we intend to accomplish.

I also want to begin by thanking our colleague from the State of Pennsylvania. It is fair to say we would not be here today without Senator SANTORUM's leadership. He has been persistent and willing to strike principled compromises. It has not always been easy, but it is to his credit in choosing to make progress rather than just having an issue. I thank him. Thanks to him, we are on the cusp of a significant breakthrough with regard to doing some things that will, in fact, lead to better care for the American people.

To our other colleagues involved in the effort, including Senators LIEBERMAN, NELSON, GRASSLEY, and my colleague from Indiana, Senator LUGAR, I salute them. I observe that at a time and in our body that is too often driven by politics and partisanship, this has truly been a bipartisan undertaking.

As I have observed before, just as faith can move mountains, perhaps it can also bring together Members of the Senate and span the political divide that too often separates those of us on one side of the aisle from the other. That is a good thing that the debate has brought to the Chamber—a greater sense of comity and devotion to progress and bipartisanship.

I reflect today, as our military men and women are in harm's way in Iraq, on the fact that our country's greatest military strength lies not in our weapons systems, not in the planes, the tanks, and the missiles, as important as they are but, rather, in the character, the bravery, and the courage those men and women honor us by demonstrating in the defense of our national security interests—just so our greatest strength domestically is not the financial markets we enjoy, not the technology or the factories, as important as they are to our prosperity. Instead, it is the innate goodness and spirit of the American people. That is what we celebrate today, Mr. President. That is what we advance with this legislation, and that is why I am such a strong supporter of the CARE Act. Through its provisions, we will enlist literally tens of millions of our fellow citizens in the urgent cause of making this country an even better place.

As my colleague mentioned, about 70 percent of American taxpayers currently do not itemize. The provisions of this legislation that will allow their charitable contributions to be tax deductible will enlist literally tens of millions of our fellow citizens in philanthropy, charity, good civic works, community level to address the urgent needs of our time: Homelessness, hunger, medical needs, fighting drug and alcohol abuse and addiction, teen and juvenile violence—these sorts of things—helping to mend the social fabric that is in too great a risk these days.

Very often, as my colleagues know, we get consumed in this Chamber in debates not about whether these urgent tasks are being performed, but instead about who is performing them. Mr. President, my strong sense of where the American people stand today, and my strong sense of where the Senate needs to stand today, is on the side of those who are getting these works done, effectively addressing the needs of the American people.

When it comes to housing the homeless, feeding the hungry, caring for the sick and afflicted, it is more important these tasks are being accomplished in the most effective way rather than getting bogged down into who is accomplishing it and exactly how.

We will enlist thousands of additional organizations, empower them, and increase their efforts—church groups, civic groups, other groups dedicated to doing good deeds, who enlist our citizens in the cause of not only doing well but also accomplishing good, and that is vitally important for the future well-being of our great society.

There are two additional points I think should be remarked upon. Senator SANTORUM alluded to the first. It is the individual development account provisions of this legislation. It involves a bringing together of the best thinking on both the left and the right. This provision would empower those who are less fortunate in our society to get a stake in the American dream, a stake toward owning a first home, starting a small business, going to college—the kinds of activities that will lead to greater prosperity and progress for individuals who currently do not have much in the way of hope for either. It gives them a property interest and a stake in the marketplace in which traditionally those on the ideological right would have a greater interest, but it focuses the property interest and the competitiveness in the marketplace on those who are less fortunate, giving them all an opportunity to make the most of their God-given talents, something that those on the ideological left speak to with great fervor.

This is a provision that brings the best of thinking across the ideological spectrum, regardless of ideology, to do what is right for the American people. That is why it is a sensible and important step that is included in this legislation.

There is something else in this legislation that is near and dear to my heart. We have an outstanding example in my home State of Indiana. I know my colleague from Pennsylvania has spent a great deal of time thinking about how to break the cycle of poverty. He has worked extensively in the area of welfare reform. As a matter of fact, to set an example for his colleagues of actually reaching out to individuals who have been in the welfare system and not only moving them from welfare to work, but moving them into jobs in his own office. I salute him for that success. Again, it is an example we would all do well to emulate.

As the Senator from Pennsylvania knows well, we spend hundreds of billions of dollars in this country dealing with the manifestations of what really are deeper underlying causes. If one looks at the causes of welfare dependency, at the causes of juvenile violence, teen pregnancy, alcohol and drug abuse, educational and economic underperformance, all too often one will find the root causes of these manifestations and all the expense we go to in how we treat our children.

There is an important provision in this legislation in this regard. It deals with maternity homes. We have an outstanding example: Saint Elizabeth's in Jeffersonville, IN, in Clark County. It is an outstanding example of how this money can be leveraged not only in helping the teen mothers but in helping the children and, in so doing, helping taxpayers and the rest of society.

Their experience indicates that 90 percent of these young women who are expectant mothers who have the benefits of the services of Saint Elizabeth's go on to finish their high school education, to get a diploma, to accomplish that first educational step on the ladder toward a more successful life.

It is about the same percentage for their children. New babies are born healthy rather than with serious health problems. And about the same percentage of those new mothers do not go on to have additional children out of wedlock. So it is good for the mothers because they finish their education, it is good for the children because they are born healthy, and it is good for society because we deal with some of the root causes of poverty, homelessness, teen violence, drug and alcohol addiction, and education underperformance, and in so doing, help society as a whole and the taxpayers in addressing these problems at the root cause, rather than waiting to address the symptoms, the manifestations at a later stage.

I am pleased to join with my colleague. This legislation, frankly, has been too long in coming, but here we are on the cusp of a great step forward to make our Nation not only more prosperous, not only more secure, but more decent, more compassionate, more just. That, at the end of the day,

is the test of a great society and a great nation, measured not only by the strength of our arms as being demonstrated abroad as we speak, not only in the size of our gross domestic product, as important as that is, but in the opportunity and the decency we demonstrate to our fellow citizens in the course of their daily lives and in our own.

For all those reasons, Mr. President, I count myself a strong supporter of this legislation. I again thank the Senator from Pennsylvania. Without his efforts, we would not be here. I thank those on our side of the aisle who worked so hard on this legislation. I am hopeful that in short order we not only can pass this bill and send it to the President for signature, but, in so doing, help millions of our fellow citizens. I thank my colleagues for their time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank the Senator from Indiana for his overly kind words with respect to my participation in this legislation. The Senator from Indiana has been truly one of the people out front and has been very supportive. I cannot count the number of press conferences I have asked the Senator from Indiana to be at trying to keep this ball rolling, and at times with a very busy schedule. He has always found time to associate himself with this cause and to continue to make sure it was on track in a bipartisan way.

That is how we get things done around here. I am very happy to have him as one of the prime cosponsors of this legislation. I again appreciate very much his kind words, but even more so appreciate his tremendous effort on making this legislation a reality.

I see the Senator from Rhode Island. If he is on a time schedule, I will be happy to yield the floor to provide him an opportunity to speak.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I commend Senators GRASSLEY and BAUCUS for bringing this important legislation to the floor, but I particularly commend and thank Senators SANTORUM and LIEBERMAN for their principled and tireless efforts to bring this legislation to the floor and for recognizing that original versions of this legislation contained elements that were, to say the least, controversial.

Senator SANTORUM particularly recognized the need to provide additional resources to faith-based organizations and other charitable organizations through new incentives in the tax code to encourage people to contribute to charities. All of these issues compelled him to make a very difficult choice, a very important choice, and I think a very statesmanlike choice to send to the floor today a version of the bill that I assume will get the unanimous approval of this Senate.

It recognizes our shared belief that the more resources we can direct to organizations that are committed to helping people, the better off we will be. The increase in the social service block grant is a tremendous step forward and is something I know I am proud of, but certainly the Senator from Pennsylvania has to be very proud of because he is the principal architect of this effort, and the new tax advantages also are very important.

Indeed, Senator SANTORUM and Senator LIEBERMAN worked very hard to improve legislation that in the other body was submitted as the Community Solutions Act of 2001, known as H.R. 7 in the 107th Congress. That legislation contained a number of controversial and potentially unconstitutional provisions, but they worked very diligently, very carefully, very thoughtfully to eliminate those provisions from their bill and ultimately today to bring this legislation to the floor, which I think and believe will get, as I said, unanimous approval by this body. Certainly I approve of it.

The CARE Act is going to provide increased resources for needed social services, and it is going to do so without including at this juncture troubling provisions that were in the original House bill. I know the Senator from Pennsylvania reserves his right to engage again on this issue—in fact, I believe he will exercise his right in all forums, and that is the glory of this body, and we shall engage in more extended debate, I think, in the future. But this afternoon is an opportunity to commend him, thank him, and recognize his wise and statesmanlike conduct. I again thank Senator SANTORUM.

The debate about church and state in this land precedes, indeed, the Constitution of the United States. It has been ongoing since the early days of the American experience. Religion has been an important part of our national life throughout our history. Indeed, European immigration in large part was motivated by the search for an environment conducive to freedom of conscience and religious exercise unhampered by State involvement.

Today, in the year 2003, religion remains a vital force in our national life and religiously affiliated institutions play a critical role in the provision of social services. For example, in 1996, Federal, State, and local governments granted $1.3 billion to Catholic Charities USA, comprising 64 percent of its budget. In 1999, 53 percent of Catholic Charities' budget came from State and local governments, and an additional 9 percent came from the Federal Government.

In 2001, United Jewish Communities received a Federal grant of $59.8 million. If indirect payments were included—for example, Medicaid, Medicare, vouchers, or food stamps—the amount flowing through religious organizations would be significantly higher.

Both of these mission-driven, faith-based groups are independently or separately incorporated as nonprofits and both are able to distinguish their religious activities from their secular social services activities.

So an initial point we must recognize in the debate about faith-based initiatives is that it is not whether religious groups will or should play a role in the spiritual and temporal lives of Americans—they do, and they will continue to do so—nor is the question about whether the government discriminates against faith-based charitable groups. The question is how the important roles faith-based organizations play can continue to meet the constitutional requirement of separation between church and state, both as a matter of law and as wise public policy.

This constitutional standard has strengthened religion in America compared to other countries around the world. We can see on the nightly newscasts the effects of intolerance across the globe, of established religions battling other beliefs. In America, we have been spared much of that. I believe it is directly attributable to the wise condition included in the First Amendment.

My awareness and sensitivity to these issues might spring in large part from my roots growing up in Rhode Island. As a child, I learned the history of Roger Williams and the founding of the colony of Rhode Island and Providence Plantation. Upon leaving the enforced orthodoxy of the Massachusetts Bay Colony, Roger Williams started a settlement that ultimately became Rhode Island. This settlement was founded on his belief, in his words: ''that no man should be molested for his conscience.''

The spirit of Roger Williams was captured by his contemporary, John Clarke, in the petition for a new royal charter by the people of Rhode Island in 1663. In his words, the people of Narragansett Bay:

> have it much in their hearts, if they may be permitted, to hold forth a lively experiment, that a flourishing and civil state my stand, yea, and best be maintained. . . . with a full liberty in religious commitments.

As a result of this religious liberty, Rhode Island became a refuge for people persecuted for their religious beliefs elsewhere. And Anabaptists, Quakers, and Jews settled in Rhode Island because of its commitment to religious liberty and tolerance.

This lively experiment became a model for the Founding Fathers and helped lead to the drafting of the First Amendment: ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.''

In explaining what the First Amendment meant to the Danbury Baptist Association in 1802, Thomas Jefferson wrote that the combined effect of the establishment and free exercise clauses of the Constitution was a ''wall of separation between church and state.''

Jefferson's comments were not unique to him. Senator DURBIN has already made a reference to President

James Madison. President Madison what was meant by this separation of church and state extremely clear in several messages he delivered on Government funding of religious endeavors. In 1811, he vetoed a congressional bill granting the use of some Federal land to a church in the Mississippi territory. President Madison stated:

Because the bill in reserving a certain parcel of land in the United States for the use of said Baptist Church comprises a principle and precedent for the appropriation of funds to the United States for the use and support of religious societies, contrary to the article of the Constitution which declares that ''Congress shall make no law respecting a religious establishment''. . . Resolved. That the said bill does not pass.

Indeed, I find it interesting that conservatives would so cavalierly dismiss so much of the history of this country and disregard so many of the fundamental principles of the Founding Fathers. President Bush and his conservative followers want to transform the relationship between church and state by directly funding pervasively sectarian organizations. He has done this by regulation and by Executive order, since he has largely been unsuccessful in accomplishing these tasks through the legislative process.

Just consider some of the changes that he has advanced thus far. In a June 2001 Department of Justice memorandum, the Department of Justice took the legal position that faith-based organizations that are given Federal taxpayer dollars to run governmental programs should be able to engage in employment discrimination on the basis of religion. Subsequent to this memorandum, the President by Executive order overrode a rule first enunciated by President Franklin Roosevelt that the Federal Government should not give contracts to employers who engage in discrimination on the basis of religion. Thus, it is now the position of the White House that government contractors can discriminate.

The President believes the government should fund faith-based organizations who use proselytization and prayer to cure drug addiction and other social programs. In his State of the Union Address, President Bush cited one such program in Louisiana that expressly combats drug abuse with faith. The head of another often-cited religious program, Teen Challenge, boasted to Congress that he was not only able to get kids to stop using drugs, he converted Jews into Christians in the process.

In newly proposed HUD regulations, the Administration says that Federal funds can be used to construct a religious building used for religious activities if the building also can be used for a public purpose such as counseling or a food pantry. At least that is the proposal.

With these and other initiatives, the President is attempting to breach the wall the Founding Fathers set up between church and state. These initiatives are clearly designed to fund proselytization and to promote certain types of religion.

There are legal challenges being raised to many of these proposals. But the long and short of it is, we have an opportunity to debate and to decide these issues through the legislative process, and we have an obligation to do so. And when there is a more robust, more extensive attempt to legislatively condone or sanction these faith-based initiatives, I believe there are going to be three major areas we will need to address.

One area is effective restraints on proselytization with taxpayer funds. The second is compliance with local regulatory standards in the delivery of public programs. And the third is prohibiting the use of public funds in employment discrimination.

First, with respect to proselytization. If the separation of church and state means anything, then in my mind, it must mean that no American should be compelled to pass a sectarian test or participate in sectarian exercises to receive a public benefit. This principle should be included in legislation and not left to the more shifting sands of regulatory pronouncements.

Second, many advocates of faith-based initiatives argue that they simply want a level playing field. Let's take them at their word. If State licensing arrangements are appropriate and necessary to protect children in publicly funded programs, why should religious providers be exempt from such licensing requirements? If we consider this issue, we will need to look for the even application of local and state laws, particularly laws with respect to the protection of children and public health. This is what we will need to do in order to truly create an even playing field.

Finally, we must address the issue of employment discrimination. Title VII provides an exemption for religious groups in certain situations. In the Amos case, the Supreme Court held that a religious group using its own funds may claim the Title VII exemption. In the words of the Court, the purpose of the exemption was to alleviate ''significant governmental interference with the ability of religious organizations to define and carry out their religious missions.''

Today, with respect to the Administration's proposal, we must recognize that rather than seeking autonomy from governmental interference, religious groups are seeking taxpayer funds to carry out governmental responsibilities. Indeed, in the one unreported case that has ruled on the use of public funds in this way, the court, in this labor case, concluded that the title VII exception does not apply.

As James Madison said in 1785, in his ''Memorial and Remonstrance Against Religious Assessments,'' in opposition to a proposal by Patrick Henry that all Virginians be taxed to support teachers of the Christian religion:

If ''all men are by nature equally free and independent,'' . . . above all are they to be considered as retaining an ''equal title to the free exercise of Religion according to the dictates of conscience.'' Whilst we assert for ourselves a freedom to embrace, to profess and to observe the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offense against God, not against man: To God, therefore, not to man, must an account be rendered.

All of this leads me to my final point. In the words of the New England poet, Robert Frost, ''Good fences make good neighbors.'' What might be permissible under the law does not always guarantee the wisest policy.

We need to remember that as we debate the President's faith-based initiative, religion has thrived in America because few people confuse religion with government. Religion has been a citadel of conscience and a check on government because it draws its strength and its support from its adherents, not from bureaucratic patrons.

The religious communities of America that have been unequivocally supporting the President's attempts to allow discrimination with Federal dollars might be mindful of the old saying: Be careful of what you pray for.

As the House of Representatives has made clear, we are going to be discussing this issue in the upcoming months on welfare, SAMSHA, National Service, and other programs. It is my hope the Senate will undertake a more careful look at how the charitable choice provisions in these bills inhibit the free exercise of religion, rather than encourage it.

Again, I thank the sponsors and the chairman and ranking member of the Finance Committee for bringing this bill to the floor. This is something we will all support, and we will do so with the notion and the idea and the commitment to provide resources for people who want to help other people, and do so consistent with the spirit and the letter of the Constitution.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank the Senator from Rhode Island for his kind remarks with respect to the compromise that Senator LIEBERMAN and I have engaged in to move this legislation forward. I appreciate his support of this legislation, as I do that of all of my colleagues.

As he stated, and he is correct, I do take issue with his perspective on the issue of charitable choice and the funding—allowing of government funds to be used by organizations that have some element of faith within their structure, whether it has been the guiding principles of the organization or with the programs that they administer.

I do not believe it violates the ''separation of church and state.'' I do believe organizations of faith should not

be discriminated against. We should not be in the business of just funding a set of organizations that have no faith component in them at the expense of those that do—for a lot of reasons, not the least of which is there is a lot of evidence out there, most of which is anecdotal I understand, but a growing body of evidence that organizations of faith are much more effective in dealing with problems, particularly the more systemic problems that we have.

But I object to the underlying premise of this argument that somehow or another we are violating the Founding Fathers' understanding of the separation of church and state.

I talk at a lot of schools. I ask kids: What words are in the Constitution, ''the free exercise of religion'' or ''separation of church and state''? Usually about 75 to 80 percent of the kids say, ''separation of church and state'' is in the Constitution, which of course it is not.

The Senator from Rhode Island talked about the genesis of that in referring to one of the Founding Fathers, referring to the establishment clause as erecting a wall of separation between church and state. But what were they talking about? They were talking about certainly the country from which they came, which was England, which had an established church. The Government funded the church, as many European countries did historically, for long periods of time. Certainly prior to the Reformation, the Catholic Church was intertwined very much so with the state. After the Reformation, each reform church had its own country and was funded in many cases.

People came to this country for religious freedom. They did not want an established religion. But even at the time in America there were certain colonies that had affinities for different religions. Maryland, for example—neighboring Maryland was considered more of a Catholic colony. Pennsylvania was home to the Quakers—on down the line.

There was a concern that that could come over here to this country, so they put in this clause that we should not have an established religion.

The difference is between the constitutional provisions that allow for the free exercise of religion and the prohibition against the establishment of religion. But this is really about freedom of religion; in other words, to practice whatever religious tenets you want and for the government not to get in your way in doing so.

What some are really arguing is freedom from religion, which I can tell you is completely antithetical to what our Founding Fathers believed.

We will have this debate. I am looking forward to it because I think it is important for the Senate, arguably the greatest deliberative body in the world, to talk about these important issues.

The role of faith in our society is central. It is central to the success of America. One of the reasons we are a successful country is because we are a faith-filled country. One of the reasons we are a faith-filled country is because we have a tremendous marketplace of ideas, whether it is the street-corner preacher or the old church down the street that has been there for centuries.

We have a marketplace of ideas of faith and that is what makes us: People out preaching the Word, talking about the values that faith imparts and the messages that faith imparts and its relevance to people's lives.

Here is a statistic I just marvel over. There are more people who go to church in America over a weekend, church and synagogue and temple, than to all the sporting events throughout the entire year in America. On one weekend, more people go to their places of worship than to all the sporting events that are held in America over the course of a year. That is remarkable. It is a great thing about America. It is what makes us unique. It is because we have not established religion. But it is not because we are saying people need to be free from religion. I think that is one of the concerns I have with the tack that the Senator from Rhode Island was taking.

Let me mention a couple of issues. Again, this is the beginning of a debate that is not about this bill. I repeat, we have taken everything having to do with the concept of equal treatment out of this legislation. We will save that debate for another day. But there are some things in this legislation I would like to address very briefly.

I see the Senator from New Jersey. I will not keep him long.

One of the items I am most excited about in this legislation is a provision called individual development accounts. Senator LIEBERMAN and I and Senator FEINSTEIN and many others, who have been advocates of this legislation for quite some time, are very excited about it being part of this initiative. Individual development accounts are a matched savings account for low-income and low- to moderate-income individuals who will have an opportunity to put up to $500 a year into a savings account and have that matched, dollar for dollar, up to $500. So it will be $1,000 total.

It is an exciting opportunity for these individuals to be able to put money aside. For what? So they can put it aside for three reasons: to buy a home, to get education, higher education, or, in some cases, technical training, vocational training, as well as start a small business, start a business. So it is a way for people to save for events in their lives that can transform their future economically: better education; a home, a place where they can save, invest, and build equity.

As everybody knows in this Chamber, the place where most people have the bulk of their savings is in their home, in the equity they have in their home. So the opportunity for home ownership, and having that money for a downpayment, is so important. And IDAs create that opportunity.

And finally, for starting that small business, being that entrepreneur—that spirit really drives America and really is the ladder of success so many people in America have access to—we want to create a nest egg for people to be able to buy that first piece of equipment. If you want to start a landscaping service, you can buy that lawn mower, you can buy the other tools you need to do that job, or a variety of other interests people get engaged in as their first business.

So we, Senator LIEBERMAN and I, are very excited about this opportunity. We think it builds not just the opportunity for access to the home or to the education or to that small business, but it builds the virtue of deferred gratification. That is a virtue we sometimes do not practice very much in America, but it is a virtue of delaying the expenditure of that dollar, to put it aside, to save it for something that is more important than what you immediately have before you. And when I am talking about gratification, I am not talking about luxuries. I am talking about maybe simple things, maybe very minor things in the lives of people who are low to moderate income. But deferring that to something that may be transformational in their lives is really something we should create incentives to do because, again, it helps people move up that ladder of success in America.

I see a couple of my colleagues are in the Chamber. I am happy to yield the floor for their input.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank my colleague from Pennsylvania.

Mr. DORGAN. Will the Senator from New Jersey yield for a consent request?

I ask unanimous consent that I be recognized for 10 minutes, following the Senator from New Jersey, to speak on the bill.

Mr. SANTORUM. Reserving the right to object, I may have a Senator on the way down to the Chamber who is trying to fit in here. How long is the Senator from New Jersey going to speak?

Mr. LAUTENBERG. Less than 10 minutes.

Mr. SANTORUM. I have no objection.

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

The Senator from New Jersey.

Mr. LAUTENBERG. Once again, I thank my colleague from Pennsylvania. And I assure my friend from North Dakota, although it is not my time to give, I am happy he is going to be recognized.

Mr. President, I want to take just a few minutes to talk about the legislation before us, the CARE Act, and note its timeliness, because I think fundamental to a lot of good ideas is the fact that it is time to encourage participation in the spirit of harmony and unity within our country.

I have been struck by the fact I have not heard a call for either participation or voluntary—call it sacrifice, if you will, although compared to what our young men and women are doing in Iraq, nothing we are going to do here looks like that much of a sacrifice—but it does show good intent. To me, that is important.

So I am pleased the sponsors of this bill, Senators LIEBERMAN and SANTORUM, have agreed to make this more palatable by removing controversial language that raised some constitutional and civil rights concerns.

The bill contains several very good provisions, including changes to the Tax Code we all hope will increase charitable giving and certainly encourage the spirit of charitable giving, as well as being an incentive.

In addition, the bill increases funding for the social services block grant by over $1 billion. That will restore some of the cuts that have been made in the program over the years. This increase in the social services block grant funding will benefit thousands of Americans who are suffering in this economy, who truly need help.

If the President's faith-based initiative means anything, then, obviously, this dedication of funding for charitable work by religious and secular charities confirms that is an appropriate thing to do; that is, to look to our charitable interests to firm up the fact we do feel some commitment to commemorate the sacrifice that is being made by so many.

If this funding disappears in conference, I think it would be tragic because it would say, OK, if it passes the Senate—and I certainly hope and believe it will—and then suddenly this mystery hole opens up between here and the House of Representatives—and these things often fall in it—then it is left to people who have a curiosity about what happened, as they say, on the way to the other forum, when things just disappear. But it is a convenient sleight of hand for those who really don't want to support it but don't want to be identified with withdrawing their support.

So even though this bill is silent on civil rights issues, the President's overall faith-based initiative contains some disturbing civil rights problems. The President has announced several policies that I think should trouble Americans who care deeply about civil justice and equality.

The President has issued an Executive order that authorizes organizations that receive Federal funding to discriminate in employment—it is based on religion—for Government-funded positions. That is not fair, it is not appropriate, and I certainly don't think it is appropriate for faith-based organizations.

A policy that says ''Catholics need not apply'' should never, ever be funded by the Federal Government. If a religious group wants to restrict employment with their own money, that is their business, but they should not be able to discriminate in staffing up Government programs paid for with public dollars, tax dollars.

The American people agree. A poll by the Pew Forum on Religion and Public Life found that 78 percent of Americans oppose allowing religious groups that receive Federal funding to discriminate in employment.

And it is not merely a hypothetical problem. It is a real-life problem.

In Georgia, a man named Alan Yorker sent his resume to a Government-funded faith-based program for troubled youths. The position he sought was paid for with taxpayer dollars. The faith-based group said they were impressed with his resume and called him in for an interview. When Mr. Yorker arrived, he was asked to fill out an application form. The form asked for the name of his church. He wrote in the name of his synagogue. It also asked for the name of his pastor, and he filled in his rabbi's name.

When he sat down for the interview, he was told, straight out, they don't hire Jews. A former employee of the organization later told Mr. Yorker they usually throw resumes with ''Jewish-sounding names'' in the trash, but they did not recognize his last name as Jewish.

This was a taxpayer-funded job to perform social service work pursuant to a Government program. And President Bush thinks maybe it is OK to deny someone employment because they are of a different persuasion.

The administration thinks it is fine for a Government-funded program to tell a Catholic or a Mormon they can't get a taxpayer-funded job simply because of their religion. Well, I disagree. I think it is wrong. And I am going to join my colleagues, Senators REED and DURBIN, in fighting it during this session of Congress.

Again, I commend the sponsors of this legislation. The Senator from Pennsylvania did a very good job, I believe, in developing this legislation, for removing the controversial provisions from the bill before us.

I hope the bill will further the good work that faith-based and secular charities do every day. While this bill moves in the right direction, the administration is on, I believe, the wrong track regarding civil rights. I hope the President will reverse that course.

Mr. President, our faith should bring us together, not divide us.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from North Dakota.

Mr. DORGAN. Madam President, this is a good piece of legislation. I am pleased to rise in support and pleased particularly that it is bipartisan legislation that advances very important interests.

A wise old fellow from my small hometown once asked me if I had ever seen a U-Haul hooked up to a hearse. I said: No. He said: Well, it goes to show you, you can't take it with you.

He is right. You can't take it with you. The question is, What do you do with the resources you develop over a lifetime? It seems to me you find ways to help other people.

There is an old saying that we make a living by what we get but we make a life by what we give. The issue of charitable giving and providing nourishment and incentives to the notion of charitable giving is a very important impulse. This legislation advances that in a significant way.

Two years ago I introduced S. 1375, and then, in this Congress, S. 283. I am pleased that these provisions were included in this legislation by the Senate Finance Committee. Let me describe what they are and why they are so important.

The provisions in the CARE Act that relate to the legislation I have introduced, with some of my colleagues, allow individuals to make tax-free outright gifts to charities from their IRAs at age 70½ and charitable life-income gifts at age 59½. The reason that is important—to be able to make tax-free gifts from IRAs to charities—is they won't face adverse tax consequences when they rollover that money from their IRAs. The detrimental tax consequences have persuaded some that they can't roll these assets over into a charity.

I heard from a good many charities, when I introduced this legislation 2 years ago, that people frequently ask them about being able to give to a charity by using their IRAs to make the donation itself. But many donors decide not to make a gift from their IRA after they are told about the potential tax consequences. Tax-free charitable IRA rollovers will eliminate this concern completely.

In his fiscal year 2004 budget, President Bush proposed allowing individuals to make tax-free outright charitable IRA rollover distributions after age 65. That proposal has a lot of merit. But the approach taken in the Public Good IRA Rollover Act, S. 283, and that's included in CARE Act, is superior because it will not only allow direct charitable IRA rollovers, but it will allow tax-free life-income gifts from the IRA at age 59½. That means the assets can be donated to the charities, but the donor retains an income stream from those assets. This approach would stimulate more charitable giving, while comporting with the federal government's policy of encouraging individuals to provide for and safeguard adequate resources after retirement. This is a very important provision that could put billions of dollars of additional dollars from a new source to work for the public good.

I'm told that a senior Salvation Army official once said that ''providing for IRA charitable rollovers would be the single most important piece of legislation in the history of public charitable support in this country.''

I don't think he necessarily understates the proposition. Charitable giving is critically important. The mechanisms by which we incentivize and nurture charitable giving are in this legislation and will advance the interests of charitable giving across the country.

Let me make another point. This legislation contains more than just that provision. I single that provision out simply because I have been working on it a couple of years.

I ask unanimous consent to print in the RECORD a list of principally North Dakota organizations, 18 of them, that have been working with me on this proposition.

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

NORTH DAKOTA & FARGO-MOORHEAD CHARITIES THAT HAVE ENDORSED THE CHARITABLE IRA ROLLOVER

1. North Dakota State University Foundation, Fargo, ND; 2. University of North Dakota Foundation, Grand Forks, ND; 3. Bethany Homes, Inc., Foundation, Fargo, ND; 4. Red River Zoological Society, Fargo, ND; 5. Fargo Catholic Schools, Fargo, ND; 6. Oak Grove Lutheran School, Fargo, ND; 7. Meritcare Health System, Fargo, ND; 8. Evangelical Lutheran Church in America, Eastern North Dakota Synod, Fargo, ND; 9. Red River Human Services Foundation, Fargo, ND; 10. Eventide Homes, Moorhead, MN; 11. Fargo-Moorhead Community Theatre, Fargo, ND; 12. Plains Art Museum, Fargo, ND; 13. Fargo-Moorhead Symphony, Fargo, ND; 14. Village Family Service Center, Fargo, ND; 15. Fargo-Moorhead Area Foundation, Fargo, ND; 16. Foundation of Grand Forks, East Grand Forks & Region, Grand Forks, ND; 17. United Way of Fargo-Moorhead, Fargo, ND; and18. Prairie Public Broadcasting, Fargo, ND.

As of Monday, May 13, 2002.

Mr. DORGAN. The provision in the CARE that deals with charitable deductions for non-itemizers is also very important. All of this coming together is legislation I am proud to support. It is a significant step for good.

Let me say one additional point. In order to pay for these proposals—and these proposals are paid for with a revenue portion of the bill—there are additional curbs on tax shelters. I strongly support that as a matter of good tax policy. Last year, former IRS Commissioner Rossetti told Congress:

> Nothing undermines confidence in the tax system more than the impression that the average honest taxpayer has to pay his or her taxes while more wealthy or unscrupulous taxpayers are allowed to get away with not paying.

He is correct. What we have seen, with front-page stories in journals and technical publications, as well as major daily newspapers, is the growth of abusive tax shelters. Shutting those down makes a lot of sense. I don't believe that there is a provision in this bill that deals with the issue of moving corporate headquarters overseas and renouncing your U.S. citizenship in order to save on taxes. But that is another piece we ought to do as well.

I simply make the point that the other piece of this bill that is important is we pay for this, and we pay for it with good tax policy by curbing tax shelters.

There are a lot of things in this country that are done that make people feel good. One of those is the charitable giving that Americans do. Americans do a great deal of charitable giving. They do it because they know there is a need, and they know people who need help can count on others who will offer it. With respect to the provision I have been working on, there is an impediment that has prevented people from saying, I would like to roll over my IRA assets to a charity and provide that charity with resources it needs. To do that under present law significantly penalizes them through the Tax Code. This legislation responds to that.

Allen Huffman on my staff and others have worked together for a long while on this particular provision of the bill. There are other provisions that have merit as well.

I thank the manager of the bill and the ranking member of the committee who bring it to the floor. When we pass this—and we will—it will represent a significant positive step toward good public policy. I am pleased to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I congratulate Senators SANTORUM and LIEBERMAN and everybody else who has had a voice and hand in shaping and crafting the CARE legislation before us. It makes a significant contribution to the strength of volunteer organizations and charitable organizations. It is a very significant contribution to that wonderful cause and to this wonderful land of ours. I commend them.

I would like to take a moment here to highlight a provision in the managers' amendment to strengthen the ability of the Securities and Exchange Commission to detect, investigate, and punish violations of Federal securities law. This provision has been added to the CARE Act, because we have had the support and we have been able to utilize the efforts of the managers of this bill, Senators GRASSLEY and BAUCUS, and of the chairman and ranking member of the Banking Committee, Senators SHELBY and SARBANES. This is an effort that Senator BILL NELSON and I and others have been involved in for some time. Now it will come to fruition, at least in the Senate, tomorrow when we adopt this legislation, including the managers' amendment.

I also thank the Securities and Exchange Commission for its assistance in crafting this legislation and for the agency's support of our efforts to enact it into law. Senator BILL NELSON and I and others have been working on this addition to the SEC enforcement powers for a long time. We are very grateful to all those who have worked with us, including Senators CORZINE and BIDEN who cosponsored the SEC Civil Enforcement Act, S. 183, which we introduced earlier this year—in January—which is identical to the language which is in the managers' amendment.

The SEC Chairman, Bill Donaldson, is very supportive of our SEC enforcement legislation. I ask unanimous consent that a letter from the SEC Chairman supporting this provision and describing it as one that will ''significantly supplement and strengthen the Commission's ongoing enforcement efforts'' be printed in the RECORD at this time.

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

U.S. SECURITIES
AND EXCHANGE COMMISSION,
Washington, DC, April 2, 2003.

Hon. CARL LEVIN,
Ranking Minority Member, Permanent Subcommittee on Investigations, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEVIN: I want to express my thanks for your recent introduction of S. 183, your proposal to enhance the Commission's authority to seek civil penalties for violations of the Federal securities laws, increase the penalties the Commission may seek, and eliminate a procedural requirement that may slow the Commission's efforts to trace and recover misappropriated investor funds.

I support this proposal, which was previously reflected in a bill you introduced in the 107th Congress, to significantly supplement and strengthen the Commission's ongoing enforcement efforts. I very much appreciate your steadfast dedication to supporting the work of the Commission in protecting investors.

Please do not hesitate to contact me or Stephen Cutler, Director of the Division of Enforcement, at (202) 942–4500 if we can be of any assistance in this regard.

Sincerely,

WILLIAM H. DONALDSON,
Chairman.

Mr. LEVIN. Madam President, here is a description of what the Levin-Nelson provision would do.

First, the provision will grant the SEC administrative authority to impose civil monetary fines on any person who violates Federal securities laws. Under current law, only broker-dealers, investment advisers, and certain other persons are now subject to administrative fines by the SEC. Our legislation will allow the SEC to impose administrative fines on anyone who violates Federal securities law, including, for example, corporate officers, directors, auditors, lawyers, or publicly traded companies, none of whom are now subject to being fined by the SEC in administrative proceedings. These fines, of course, would be subject to judicial review, as are all SEC administrative determinations.

Last year, the Permanent Subcommittee on Investigations, which I then chaired, conducted an extensive investigation into the collapse of Enron. As a result of that investigation, the Subcommittee determined that Enron's board of directors and officers and certain major financial institutions assisted Enron in carrying out deceptive accounting transactions and other abuses that misled investors and analysts about the company's finances.

The Subcommittee's last Enron hearing in December also highlighted the fact that the SEC is in need of additional tools to deal with the individuals and entities that participated in Enron's deceptive accounting or tax strategies. Our legislation would give to the SEC new authority to impose an administrative fine on anyone who violates the Federal security laws—not just broker-dealers or investment advisers, but also corporate directors or officers, employees, bankers, lawyers, auditors, law firms, accounting firms, corporations, financial institutions, partnerships, and trusts.

Second, the provision will significantly increase the maximum civil administrative fine that the SEC is able to impose on persons who violate Federal securities laws. The civil administrative fines that the SEC is currently authorized to impose have statutory maximums that, depending upon the nature of the securities law violation, range from a maximum of $6,500 to a maximum of $600,000 per violation. Again, the particular amount depends upon the nature of the violation. In a day and age when some CEOs make $100 million in a single year, and a company like Enron can report gross revenues of $100 billion in a single year, a civil fine with a maximum of $6,500 is laughable. Here is what one SEC staff stated about the current maximums in a document dated June 2002, and this explains why the agency is supporting our legislation:

> The current maximum penalty amounts may not have the desired deterrent effect on an individual or corporate violator. For example, an individual who commits a negligent act is subject to a maximum penalty of $6,500 per violation. This amount is so trivial it cannot possibly have a deterrent effect on the violator.

Our provision would increase the civil fine maximums from a range of a maximum of $6,500 to a maximum of $600,000 per violation, depending on the nature of the securities law violation, to a range that goes from a maximum of $100,000 to a maximum of $2 million per violation. At a time when we are seeing corporate restatements and misconduct involving billions of dollars, these larger fines are critical if the fines are to have an effective deterrent or punitive impact on wrongdoers.

Third, the Levin-Nelson provision would grant the SEC new administrative authority, when the SEC has opened an official SEC investigation, to subpoena financial records from a financial institution without having to notify the subject that such a records request has been made, thereby bringing the SEC's subpoena authority into alignment with the subpoena authority of Federal banking agencies like the Federal Reserve and the Office of the Comptroller of the Currency. This authority would allow the SEC to trace funds, evaluate financial transactions, and analyze financial relationships without having to alert the subject of an investigation to the SEC's inquiry. Under current law, the SEC either has to give the subject advance notice of the subpoena or spend precious time seeking to obtain a court order to delay notification.

Cases we are seeing today involve allegations of persons using offshore accounts to move millions of dollars or engage in complex transactions that materially affect the financial statements and tax returns of publicly traded companies in the United States. The SEC must be able to look at financial records quickly without giving the subject of the inquiry an opportunity to move funds, change accounts, or further muddy the investigative waters.

This authority is particularly important in light of the Patriot Act of 2001, which for the first time requires securities firms to detect and report possible money laundering through U.S. securities accounts. The SEC cannot be expected to effectively monitor these anti-money laundering efforts or act quickly to trace possible terrorist financing or other suspicious financial conduct if, as is the case now, the SEC must provide advance notice to investigative subjects or obtain court orders granting delayed notification. No Federal banking agency operates under these types of constraints in its anti-money laundering efforts, and there is no reason why the SEC should. Our provision would modernize the SEC's oversight authority and bring it into alignment with the Federal banking agencies.

Last year, the Sarbanes-Oxley law strengthened law enforcement and stiffened penalties for Federal securities crimes. By enacting the Levin-Nelson provision this year, Congress would help put some teeth into SEC enforcement on the civil side. We originally offered this legislation as an amendment to the Senate bill that resulted in the Sarbanes-Oxley Act, but were unable to obtain a vote before time ran out. That is why we are back.

Investor confidence in U.S. capital markets has not been fully restored, and Congress needs to provide strong leadership to assure U.S. investors that their interests are protected. A vigorous SEC that can act quickly to impose civil fines on those who violate Federal securities laws can help restore investor confidence in the effectiveness of U.S. securities laws and capital markets. In addition, since many securities violations warrant civil rather than criminal treatment, strengthening the SEC's civil enforcement authority would help streamline the available civil enforcement options and give the SEC better tools to fashion appropriate civil penalties.

Again, I thank my colleagues for supporting this provision.

Madam President, I ask unanimous consent that a letter from the former Chairman of the SEC, Harvey Pitt, dated August 30, 2002, also endorsing this legislation be printed in the RECORD at this time.

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

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, August 30, 2002.

Hon. CARL LEVIN,
Chairman, Permanent Subcommittee on Investigations, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEVIN: This letter responds to your letter of August 9th, seeking my views on your proposal to enhance the Commissions' authority to seek civil penalties for violations of the federal securities laws, increase the penalties the Commission may seek, and eliminate a procedural requirement that may slow the Commission's efforts to trace and recover misappropriated investor funds.

The three additional enforcement tools you contemplate reflect recommendations we have made previously in an effort to facilitate our goal of achieving ''real-time enforcement.'' Especially in light of recent events, I believe these proposals would enhance our efforts and the interest of investors. As you know, during this Congressional session, with the bipartisan support of Congress and the Administration, the Commission already has been given, and has begun to implement, greater authority to pursue and punish corporate wrongdoers and enhance corporate accountability. The additional authority about which you inquire would be a welcome addition to our enforcement arsenal, if the proposals achieve bipartisan support.

Again, thank you for your interest in strengthening penalties for securities fraud violations. Please do not hesitate to contact me or Stephen Cutler, Director of the Division of Enforcement, at (202) 942–4500 if we can be of further assistance.

Yours truly,

HARVEY L. PITT.

Mr. LEVIN. Madam President, I thank the managers and all the other persons who worked with us to get this legislation included in the managers' amendment and, hopefully, passed tomorrow.

Mr. SARBANES. Madam President, I rise in support of the Levin-Nelson provision included in the managers' amendment to the CARE Act of 2003. This provision, the SEC Civil Enforcement Act, will strengthen the Securities and Exchange Commission's authority to prosecute securities fraud violations and augment investor protection. Senator LEVIN is to be commended for his unwavering advocacy on behalf of investors and his role in ensuring that our capital markets retain their reputation as being the fairest, most efficient, and most transparent in the world.

The Levin-Nelson provision has the full support of the SEC Chairman, William Donaldson, and it has been supported by the full Commission and by former SEC Chairman, Harvey Pitt, who remarked that this provision would promote the SEC's goal of achieving ''real-time enforcement.'' The legislation has been sought by the SEC's Enforcement Division because it will eliminate inefficiency, provide the SEC with additional flexibility, and strengthen the Commission's ability to hold securities law violators accountable for their actions.

The SEC Civil Enforcement Act effectively complements the statutory framework created by the Public Company Accounting Reform and Investor Protection Act of 2002—the ''Sarbanes-Oxley Act.'' Against the backdrop of a series of corporate scandals and a severe drop in investor confidence last year, the Sarbanes-Oxley Act sought to take steps to ensure investors that corporate executives and financial reports are trustworthy, accountants and analysts independent, and that the SEC has adequate resources and enforcement authority to fulfill its mandate.

In its continuing, ''real-time'' investigation into accounting irregularities at HealthSouth Corp., the Commission has put these new powers to work. As The Wall Street Journal of April 4 noted, ''the HealthSouth inquiry has already netted eight criminal convictions, accomplishing in just weeks what might have stretched across months or even years in the past.''

The Levin-Nelson provision will significantly buttress the SEC's enforcement efforts in this area. I urge enactment of the provision to further protect securities investors and help assure the U.S. capital markets remain the envy of the world.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. 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. NELSON of Florida Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FITZGERALD). Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I wish to talk about the CARE Act. I rise to speak in favor of the Charity Aid Recovery and Empowerment Act, or the CARE Act.

As the Senate is considering this legislation, it is important to remember both Republicans and Democrats have cosponsored the CARE Act. This reflects the bipartisan spirit of this legislation which out of this legislative caldron was created by compromise, and we had last year as the goal of increasing charitable giving and helping the needy.

In light of the uncertain economy, charities across the Nation are serving the needs of more people with fewer resources. This particular legislation is an opportunity to encourage Americans to help their neighbors, community, and their country by giving. By extending the charitable contribution deduction for 86 million Americans who do not itemize their tax returns, and allowing people to make charitable contributions from their individual development accounts, IDAs, this legislation creates incentives for giving to charity.

This legislation also provides an enhanced charitable deduction for restaurants and businesses that make donations of food to charitable organizations. For some two decades, my wife Grace and I have been working with organizations to distribute food to the hungry. One such organization is back in our State of Florida. It is actually a part of our State Department of Agriculture. Its name is Farm Share. What it operates on is the original concept of gleaning, which was a biblical concept. In biblical times it was their social security system. When the farmers would go in and harvest the field, they would leave the rest of the crop so that then the poor people could come into the field and harvest the remaining crop, called gleaning; that was their way to support those least fortunate in the society of the day.

When you take that ancient concept and bring it forward to today, look at all the crops that are wasted. So this concept of Farm Share, a part of our State Department of Agriculture, although not going directly into the field, what we find is enormous amounts of edible food wasted in the distribution process—in the collection, in the actual harvesting, then at the packinghouse and the rest of the distribution process.

So what Farm Share does is go to the packinghouse where tomatoes, for example, a winter crop in south Florida, might have a blemish on them. They are completely edible, but they might not be marketable for that particular company buying those tomatoes. Or a company that uses a lot of tomatoes, such as McDonald's Corporation, wants a tomato of a certain size. So the tomatoes that are not that size are discarded. But it is good food that is going to waste. It is a form of gleaning, to save that, to have it packaged, and then ready for distribution.

When my wife and I announce a distribution and we reach out to all the soup kitchens and reach out to the churches that are so effective throughout the communities in distributing food to the poor, when we send word out that the next morning there is going to be a distribution of food, and you arrive the next morning, there is a lump in your throat to suddenly see the lines of hundreds of hungry people in America; that they are so grateful, so orderly, so polite, and so thankful for the food that is going to be distributed.

It is not unusual I would come as a cosponsor of this act and be very thankful that the Senate is considering it. It looks as if we have our differences worked out, and we are going to be able to pass it. This new legislation is more than just tax provisions. Individual development accounts are also expanded in this legislation. These IDAs are special savings accounts that offer matching contributions from participating banks or community organizations. This innovative program encourages low-income families to build assets and proposes reduced costs for banks and community organizations that offer the IDAs.

This legislation also increases the funding for the social services block grant. That supplies States with resources to support a variety of social services. These funds can be used to assist the elderly and disabled so they do not need to enter institutions. Those funds can also be used to prevent child and elder abuse and to prevent things that go on that we read about in the newspaper that we shudder at in regard to the care of our elderly. These funds can be used to provide child care, to promote and support adoption, and many other purposes.

By creating tax incentives for charitable contributions we can help support and give incentives to the natural instincts of the American people, which are to be generous, to give. When they do, faith-based and community organizations can pass on the gains to a community.

We know that faith-based groups are doing good work all over the country, and their work is already being funded by Federal dollars because they are running programs that work to better people's lives. These faith-based groups operate soup kitchens, they run homeless shelters, and they rehabilitate drug users. Our Nation already funds many of these programs. I have seen these programs all over Florida. I have seen them here in Washington, DC. Anyone would be amazed just a stone's throw from where we are in the U.S. Capitol at the kinds of programs going on in the inner city to feed the poor and minister to the least privileged in society.

Lives have been changed. I have seen cities, particularly the inner cities, being transformed from neglect to respect.

This legislation is all about grassroots change, change from the ground up, by people who are close to the problems and who care enough to take up the challenge.

I have cosponsored this legislation before. I am going to continue to work with our colleagues to try to find ways to help those who help others.

This is one way. As we have been considering this emergency funding bill that we just passed and that is now in the conference committee, I thank the Senate for increasing the food aid. Back earlier when we were considering legislation, the task fell to me to increase the appropriation with regard to food aid, particularly destined for Africa, where they are experiencing another enormous drought which has caused a great deal of famine and death. The United States is a generous country. So, too, from our generosity, when we see a problem such as that, we want to try to take care of it.

We passed a level of increased food aid here at $500 million. It was watered down in conference to $250 million. A lot of that money was squirreled away from Africa to meet the food needs there will be in Iraq. Because of that, a few nights ago on this floor we agreed to an amendment to the emergency

supplemental appropriations bill that would have an additional $600 million to go for emergency food assistance. That will then be able to get to Africa with all of its famine that is ravaging the land.

It is my hope, as the Appropriations Committees are meeting in conference right now on the emergency supplemental to determine the final outcome, that they will honor all those images they have seen on television of starving children and they will not reduce that $600 million very much.

It is with this spirit of thanks, of humility, and thanksgiving that I come to speak on behalf of this legislation and to thank the Senate and the many participants here who have worked out all the kinks in this legislation so we could pass it in a unanimous fashion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

UNANIMOUS CONSENT REQUEST—NOMINATION OF PRISCILLA OWEN

Mr. BENNETT. Mr. President, as in executive session, I ask unanimous consent that there be an additional 6 hours for debate on the Owen nomination, provided further that the time be equally divided between the chairman and ranking member of the Judiciary Committee, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Reserving the right to object, we on this side are perplexed. We have indicated to the majority leader that there are at least three circuit judges who, with just a little bit of work, could be approved this week. The average during the Clinton 8 years was eight circuit judges a year. If the three were approved, that would be five already by Easter.

One of those is Edward C. Prado of the Fifth Circuit. They could go to that tomorrow—tonight. So we believe there is more here than meets the eye. There are three circuit judges who are available with just a little bit of work. This has all been discussed with the majority leader.

So for these and many other reasons, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BENNETT. Mr. President, I modify the request to 10 additional hours.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Yes. Mr. President, reserving the right to object, we have approved, during the time President Bush has been President, 116 judges. Two have been turned down—116 to 2. One of those who was turned down is back. Owen is back. This would be the first time in the history of this country that a judge who has been turned down is back and would be approved.

The hours that have been suggested by my friend from Utah I appreciate very much, but there are productive things that could be done during those 10 hours, including the approval of more judges. There could be at the end of this week 120 judges instead of 116.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BENNETT. Mr. President, I ask if any number of hours would be sufficient for the Senator from Nevada.

Mr. REID. Speaking for the Senator from Nevada, there is not a number in the universe that would be sufficient.

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

CUBAN OPPRESSION

Mr. NELSON of Florida. Mr. President, I wish to call the attention of the Senate to the important events happening right now in the island nation of Cuba. Over the past several weeks, Fidel Castro has been rounding up democracy activists, independent journalists, librarians, and signers of the Varela Project and throwing them in jail.

Fidel Castro has used the world's focus on the war in Iraq to divert attention in order for him to brutally crack down and further oppress Cubans who yearn for freedom. It has been difficult to get the exact number, but we think it is approximately 80 Cubans who have been arrested. Yesterday, a number of those activists who had been arrested were sentenced to terms of 15 to 25 years—if you can believe that—on charges of ''undermining the socialist state.'' It is reported that at least 11 of those could get life sentences, and at least one could get the death penalty.

I take the floor of the Senate to call to its attention that last night the Senate passed S. Res. 97, a resolution introduced by this Senator from Florida and cosponsored by the junior Senator from Virginia, Mr. ALLEN. The resolution passed the Senate unanimously. It condemns these actions, and it calls for the release of the prisoners of conscience in Cuba.

Why did the Senate want to take a stand, and why do we want to bring further attention to this other than has already been in the Nation's newspapers, pointing out that under the cloak of the world's attention being diverted to Iraq, Fidel Castro has started this crackdown and these arrests and these sentences, even possibly a death sentence? Well, it goes back to the fact that the Cuban Government does not like the world's attention that has been brought to the courageous 11,000 people who signed the petition under the Cuban law—the Cuban Constitution—which said that if at least 10,000 people sign a petition, the issues in that petition are then brought to the national assembly for action. Not only did 10,000 brave, courageous Cuban souls sign that petition, but over 11,000 did. It called for actions that you and I take for granted.

It called for freedom of speech, freedom of the press, release of political prisoners, and a free enterprise economy. It called for them to be brought before the Cuban National Assembly.

The Varela Project embodies the principles upon which all the world agrees: the right of the Cuban people to petition their government for civil and human rights, including free and fair elections.

The leader of this project, Oswaldo Paya, has continued to advance this important project at great risk to himself, his family, and his associates.

In May of 2002, Oswaldo Paya led a group of Cuban citizens who delivered exactly 11,020 verified signatures to the Cuban National Assembly supporting that referendum on civil liberties and all of the issues I have mentioned.

These are basic rights to which anyone is entitled. Recent reports indicate that the Varela network has been especially targeted in this crackdown by Fidel Castro. I take us back to last year, realizing the courageous effort by Senor Paya and the signers of that petition.

I sponsored and this Senate adopted the resolution 87 to 0, with the help of other supporters of the resolution, Senator DODD and Senator Helms. That resolution commended the Varela Project and Oswaldo Paya. It was an early step to providing international attention and support to Mr. Paya and those who signed on to the Varela Project.

The resolution that was adopted last year 87 to 0 was obviously bipartisan, and the resolution that was just adopted last night is similarly bipartisan and builds on that previous consensus and highlights that upon which we can all agree. What is that?

The resolution that was adopted last night condemns the recent arrest and other intimidation tactics against democracy activists by the Castro regime, and it calls on the Cuban Government to immediately release those imprisoned during the most recent crackdown for the acts that the Government of Cuba wrongly deems ''subversive, counter revolutionary, and provocative.''

The resolution adopted last night also reaffirms S. Res. 272, the Varela Project resolution, that the Senate unanimously agreed upon last year, which calls for, among other things, amnesty for all political prisoners. The resolution we adopted last night praises the bravery of those Cubans who, because they had simply practiced free speech and signed the Varela Project petition, have now been targeted in this most recent government crackdown.

The resolution we adopted last night urges the President to demand the immediate release of all the prisoners and to take all appropriate steps to secure their immediate release.

I wish to say this to those with whom we have contact from time to time representing the Cuban Government: We in the Senate are watching. We are not going to let Fidel Castro get away with these kinds of actions. And we are going to keep the glare of the public spotlight and the glare of world view in the international community on this kind of thuggery. We are going to call him to account in the name of human dignity and freedom because even in Cuba people are endowed by their Creator with certain unalienable rights, among these life, liberty, and the pursuit of happiness.

I specifically thank our Foreign Relations Committee which absolutely whizzed this resolution through the committee, our committee chairman, Senator LUGAR, and our ranking member, Senator BIDEN. I thank the subcommittee chairman, Senator COLEMAN. I thank my cosponsor, Senator ALLEN. I thank our ranking member of the Western Hemisphere Subcommittee, Senator DODD. All of them gave the green light and speeded this process.

I am going to continue to seek common ground with my colleagues as we seek to support the Cuban people in their struggle for freedom. I hope with this resolution having just been adopted that the administration will pursue a similar resolution of condemnation in the United Nations, and that the administration will seek immediate international support to secure the release of these and all freedom-loving Cubans who have been wrongly jailed because it is only through the constant and sustained recognition of this issue that our chances will be improved of creating forces of change on that long-suffering island.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, while the distinguished Senator from Florida is still in the Chamber, I wish to thank him for his impassioned comments. I am going to be speaking later this week on this same subject. I am one who, for a number of reasons—geopolitically, strategically, and economically—have not supported the current embargo on Cuba. I am, however—and I feel proud—as Vermonters say, I bow to nobody on the question of human rights on this floor.

I met with Mr. Castro in Havana a couple years ago at a time when there was another crackdown of dissidents. I told him specifically what I felt about that in very strong words. He obviously disagreed with me, but I felt as an American in Cuba, it would be wrong for me not to express such a view.

I will follow with a speech later this week on Cuba, but I hope my good friend from Florida, who has been such an extraordinary leader in this area over the years, when he was in State government in Florida, when he was in the House of Representatives, and as a Senator—he has been such an extraordinary leader. I hope he knows, no matter how one might feel about our overall relations with Cuba, no American should find justifiable the silence of those who simply wish to speak to basic human freedoms, basic human rights—the right of speech, the right of religion. These are issues that, from the time of Thomas Jefferson, Benjamin Franklin, John Adams, and George Washington, we have enunciated in this country, but I do not know any country that can claim any form of democracy and freedom that would feel that way. I commend my friend. I hope others will listen to him. I hope 90 miles from his home State that it will be heard as strongly as it was heard on the floor of the Senate. I commend him.

Mr. NELSON of Florida. Will the Senator yield?

Mr. LEAHY. Of course.

Mr. NELSON of Florida. Mr. President, I wish to say how much I appreciate the comments of the Senator. Here is a great example of two Senators representing two different parts of the country, at the end of the day, we have the same conclusion—what we want is freedom for that island. That island is the jewel of the Caribbean. Once freedom comes to that island, it will economically blossom and prosper. That island has so much rich history and such a beautiful culture.

The Senator has pointed out that although we might have a difference of opinion about topics such as an economic embargo, at the end of the day what we earnestly want is change. We want the winds of change to blow, and blow very hard and rapidly so that freedom can come to Cuba.

I thank the Senator for yielding.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress 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 terrible crime that occurred September 16, in New York, NY. An Arab-American man was attacked in the bathroom of a supermarket by one of the store's employees. The teenage attacker called the man an ''Arab terrorist'' before slamming his head into the steel door of the men's room. The victim was knocked unconscious for a brief time and, when he left the lavatory, his assailant and several other employees laughed at him and refused him any aid.

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.

WORLD HEALTH DAY

Mr. SARBANES. Mr. President, since 1948 the nations of the world have celebrated April 7 as World Health Day. Yesterday marked this day, which serves two important and related purposes. It focuses world attention on a specific international health issue that in the judgment of the World Health Organization, WHO, poses immediate and urgent problems. Further, it is a platform for marshaling resources to address this issue, through programs that will continue long after the day ends.

In years past World Health Day has focused on such crucial matters as the global eradication of polio and emerging infectious diseases. This year's theme is broad: ''Healthy Environments for Children,'' and it has never been more timely. While we have made great progress in the treatment of infant diarrhea, typhoid, typhus, cholera, yellow fever, malaria, dengue fever, and other environment-based diseases, access to treatment is limited or nonexistent in many parts of the world. As a result, every year more than 5 million children—the most vulnerable members of society—die before reaching the age of 14. When war or civil conflict disrupts life, the danger of infection rises, as it does among those living in refugee camps. But there is no escaping the risk anywhere that water is contaminated, food unsafe, air polluted, and sanitation systems unreliable. Children fall ill in the very places where they live.

From our experience in treating infant diarrhea we know that treatment can be effective and efficient. Every year, 1.3 million children die of diarrhea often resulting from lack of access to safe drinking water or consuming dirty food. These deaths are preventable. If a child has diarrhea, a simple and effective sugar-and-salt solution called oral rehydration can treat severe loss of fluids in the body. The cost is minimal: just under 30 cents per child—this low-technology solution can save these children's lives. This year's World Health Day is a call to redouble our efforts not only to treat environment-based diseases where they occur, but especially to eliminate the conditions where they are bred. It can be done.

As the grave respiratory infection known as severe acute respiratory syndrome, or SARS, appears to be spreading rapidly, World Health Day is also an appropriate time to consider the vital role that the World Health Organization plays in our interconnected world, where mobility literally gives wings to life-threatening diseases. Today's New York Times documents the

spread of SARS, under a headline reading ''Fear Reigns as Dangerous Mystery Illness Spreads.'' SARS apparently first appeared in China last November. In February, when the Chinese Government began reporting cases to WHO, the organization undertook a major international tracking effort, and on March 15 WHO took what the New York Times describes as ''the highly unusual step of issuing the global health alert.'' Just last week the Chinese Government permitted a WHO team to begin work on location, in the southern Chinese city of Guanzhou, where the infection rate is very high. WHO has also created a network of infections-disease laboratories in countries around the globe, and the truly extraordinary work undertaken in these laboratories has led to the tentative identification of the infectious agent. This marks a tremendous step in dealing with the intensifying threat to world health that SARS poses. According to the New York Times, SARS ''has become an international epidemic,'' and WHO is instrumental in organizing the international response.

It is not just that WHO provides the administrative framework for a coordinated response to health issues; its personnel are on the front lines in every effort to keep diseases from spreading and in treating the victims. For the most part we do not know their names, but we do know that they have dedicated their skill and even their lives to WHO's mission.

A WHO physician—Dr. Carlo Urbani, Director of Infectious Diseases in the Western Pacific Region for WHO—was the first to recognize SARS as a new and deadly disease. He threw himself into the fight to control the disease when he saw his first case, in Vietnam, persuading the government to adopt infection-control and isolation procedures. He is credited, said the New York Times, with ''shutting down Vietnam's first outbreak,'' and he was the first to alert the international medical community to the danger. Within weeks of his first intervention with a patient, however, he was infected. His heroic efforts cost him his life.

Dr. Urbani's medical specialty was worms—nematodes, trematodes, hookworms and other parasites, which are, in the words of his WHO colleague, Dr. Kevin Palmer, ''a really basic problem for every child in the tropics.'' He knew how much damage these parasites do, and also how relatively little it would take to eliminate this scourge: a 3-cent pill given twice yearly to schoolchildren. His own efforts fell squarely within the broader campaign to create ''healthy environments for children.'' At the time of his death he was working to secure the cooperation of school systems throughout southeastern Asia.

An eloquent account of Dr. Urbani's career in medicine and his tragic, too-early death appears in the today's edition of the New York Times. I ask unanimous consent to have the entire story, ''Disease's Pioneer Is Mourned as a Victim,'' printed in the CONGRESSIONAL RECORD.

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

(See exhibit 1.)

Mr. SARBANES. SARS is only the most recent of the many international health emergencies that WHO has faced. In the complex effort to reduce the spread of HIV/AIDS, WHO also plays an important part. It is estimated that of the roughly 750,000 new HIV cases in children each year, more than 400,000 could be prevented by treating the most common route of infection, mother-to-child transmission, (MTCT). As in the case of infant diarrhea, we know that simple, cheap and effective interventions are available. The drug nevirapine, for example, reduces the likelihood of transmission of HIV from a mother to her newborn by up to 47 percent. It is administered in a single dose to the mother at the onset of labor and in a single dose to the baby in its first 3 days after delivery. The intervention costs less than $4, and the drug is now available at minimal or no cost in most countries where poverty levels are high and resources scarce. The use of nevirapine to address MTCT is based on the work and recommendations from WHO.

There is hardly any country, no matter how well guarded its borders, which can be confident of remaining immune from the urgent health problems that beset the world. In fact, for more than half a century the World Health Organization has served us well. Most recently, as SARS has spread WHO has stepped into the breach, collecting and disseminating information and facilitating an international response. In oral rehydration and MTCT projects, we have seen how effectively WHO can intervene. We must respond vigorously, therefore, as WHO calls on us on World Health Day 2003 to confront and vanquish the environmental causes that bring unnecessary illness and death to millions of the world's children every year. WHO is working to turn this year's initiative into an effective global alliance, to bring to local communities the resources necessary to raise the health standards of children most at risk, and thereby transform their lives. The benefits from these efforts will surely ripple outwards: to families, to communities, and indirectly to us all. By supporting WHO we can, and we should, make a difference.

[From The New York Times, April 8, 2003.]

DISEASE'S PIONEER IS MOURNED AS A VICTIM

(By Donald G. McNeil, Jr.)

When the microbe that causes severe acute respiratory syndrome is finally isolated, some people will know what to call it. They want a Latin variation on Carlo Urbani's name.

If SARS was an infectious cloud blowing out of southern China, Dr. Urbani was the canary in its path. Working in a hospital in Hanoi, Vietnam, as a mysterious pneumonia felled one nurse after another, he sang out the first warning of the danger, saw the world awaken to his call—and then died.

If not for the intuition of Dr. Urbani, director of infectious diseases for the Western Pacific Region of the World Health Organization, the disease would have spread farther and faster than it has, public health officials around the world say.

It was a tricky call. There is nothing as telltale about the disease as the bleeding of a hemorrhagic fever or the bumps of a pox, and its symptoms mimic other respiratory conditions.

Dr. Urbani, 46, died on March 29, a month after seeing his first case and 18 days after realizing he was coming down with the symptoms himself.

''Carlo's death was the most coherent and eloquent epilogue his life could produce,'' said Nicoletta Dentico, a friend from the Italian chapter of Médecins Sans Frontières, or Doctors Without Borders, which Dr. Urbani once headed. ''His death was as a giver of new life.''

And it was in keeping with his medical philosophy. When Dr. Urbani spoke in 1999 at the ceremony in which Doctors Without Borders accepted the Nobel Peace Prize, he described doctors' duty ''to stay close to the victims.'' ''It's possible to study an epidemic with a computer or to go to patients and see how it is in them,'' said Dr. William Claus, the group's emergency coordinator for Asia. ''Carlo was in the second category.''

In Italy, he had pushed the organization into working with the poorest of the poor, with Gypsies in Rome and with African and Albanian boat people who were landing in Sicily and Calabria.

Even as a student, said Fabio Badiali, a childhood friend who is now mayor of Castelplanio, their hometown on the Adriatic Coast, he had been a volunteer, organizing groups to take the handicapped on countryside picnics. As a family doctor, he had taken vacations in Africa, traveling with a backpack full of medicine.

He had accepted the W.H.O. post, friends said, because he wanted to be back in the third world and working with patients. It was that instinct that took him to the bedside of Johnny Chen, an American businessman who entered Vietnam-France Hospital in Hanoi on Feb. 26 with flulike symptoms.

Dr. Urbani might not have been an obvious choice as a consultant in Mr. Chen's case. In his heart, friends said, he was ''a worm guy,'' a specialist in parasites.

''Other people didn't think worms were sexy,'' said Dr. Kevin L. Palmer, W.H.O.'s regional specialist in parasitic diseases and a friend. ''but it's a really basic problem for every child in the tropics.''

Dr. Urbani was an expert in Schistosoma mekongi in Vietnam, in the food-borne nematodes and trematodes of Laos and Cambodia and the hookworms of the Maldives.

Dr. Lorenzo Savioli, who worked with Dr. Urbani in the Maldives, said they worked from sunup to sundown, ignoring the famous beaches and reefs, tracking hookworm epidemiology and training workers at a malaria control laboratory, who were used to working with blood, in testing for worms. Over rice and fish in the evenings, Dr. Savioli said, they had joked, ''Nobody at headquarters was going to believe we were spending our days in the Maldives over fecal samples.''

Dr. Urbani was a worm zealot, Dr. Palmer said, because they did so much damage but could be so easily treated. For example, he said, a 3-cent pill administered to schoolchildren twice a year could rid them of most intestinal worms. Dr. Urbani was working to have school systems in southeastern Asia cooperate.

He also attacked a worm that lived on fish farms. He could not get Cambodians and Laotians to give up eating undercooked fish,

Dr. Palmer said, but he hoped to solve the problem by teaching fish farmers to divert sewage from their ponds.

He was also testing the use of a veterinary drug to kill worm larvae that can reach human brains and cause seizures.

And, said Daniel Berman, a director of the Doctors Without Borders campaign for cheaper lifesaving drugs, Dr. Urbani was pushing Vietnamese farmers to grow more sweet wormwood, a plant that can produce artemisinin, a new malaria cure.

Still, when a troublesome case turned up in Hanoi, Dr. Palmer said, the W.H.O. staff usually said, ''Call Carlo,'' because he was also known as an expert clinical diagnostician.

Mr. Chen was such a case, suffering with pneumonia and fever, as well as a dry cough. The hospital suspected that he had the Asian ''bird flu'' that killed six people in 1997 and was stopped by rigid quarantines and the slaughter of millions of chickens and ducks.

Rumors of a mysterious pneumonia had been coming out of the Guangdong region of southern China, but the Chinese authorities had been close lipped, even instructing local reporters to ignore it.

Although no one then realized the significance, Mr. Chen, 48, had also stayed in the Metropole Hotel in Hong Kong. He may have picked up the disease from a 64-year-old Guangdong doctor in town for a wedding, staying in Room 911. Investigators theorize that the doctor infected 12 other guests, several from the same floor, who carried the disease to Singapore, Toronto and elsewhere.

By the time Dr. Urbani arrived at Vietnam-France Hospital, the microbe that Mr. Chen carried was spreading. Before he died, he infected 80 people, including more than half of the health workers who cared for him. The virulence of his case alarmed world health officials, helping lead to the extraordinary health alert that W.H.O. issued on March 15. But Dr. Urbani, who first saw Mr. Chen in late February, quickly recognized that the disease was highly contagious and began instituting anti-infection procedures like high-filter masks and double-gowning, which are not routine in impoverished Vietnam. Then he called public health authorities.

Dr. Palmer recalled Dr. Urbani's conversation: ''I have a hospital full of crying nurses. People are running and screaming and totally scared. We don't know what it is, but it's not flu.''

On March 9, Dr. Urbani and Dr. Pascale Brudon, the W.H.O. director in Hanoi, met for four hours with officials at the Vietnam Health Ministry, trying to explain the danger and the need to isolate patients and screen travelers, despite the possible damage to its economy and image.

''That took a lot of guts,'' Dr. Palmer said. ''He's a foreigner telling the Vietnamese that it looks bad. But he had a lot of credibility with the government people, and he was a pretty gregarious kind of character.'' With dozens of workers at the hospital sick, it was quarantined on March 11. Infection-control practices were instituted at other hospitals, including the large Bach Mai state hospital, where Dr. Claus of Doctors Without Borders oversaw them. Dr. Urbani's quick action was later credited with shutting down Vietnam's first outbreak.

In the middle of it, Dr. Savioli said, Dr. Urbani had an argument with his wife, Giuliani Chiorrini. She questioned the wisdom of the father of three children ages 4 to 17 treating such sick patients. Dr. Savioli said Dr. Urbani replied: ''If I can't work in such situations, what am I here for? Answering e-mails, going to cocktail parties and pushing paper?'' In an interview with an Italian newspaper, Ms. Chiorrini said her husband knew the risks. ''He said he had done it other times,'' she recalled, ''that there was no need to be selfish, that we must think of others.''

But on March 11, as he headed to Bangkok for a conference on deworming schoolchildren, he started feeling feverish and called Dr. Brudon. ''He was exhausted, and I was sure it was because he had had a lot of stress,'' Dr. Brudon said later. ''I said, 'Just go.' ''But she had second thoughts. ''I called my colleagues in Bangkok and said, 'Carlo doesn't feel well, and we should be careful.' ''

Dr. Scott Dowell, a disease tracker for the federal Centers for Disease Control and Prevention, who is based in Thailand, met him at the Bangkok airport near midnight. Dr. Urbani, looking grim, waved him back. They sat in chairs eight feet apart until an ambulance arrived 90 minutes later, its frightened attendants having stopped for protective gear.

For the first week in a Bangkok hospital, Dr. Urbani's fever receded, and he felt a bit better. But he knew the signs. ''I talked to him twice,'' Dr. Palmer said. ''He said, 'I'm scared.' ''

That was uncharacteristic for a man who was known as big, charming and full of ironic wit. In Italy, he staved off boredom by hang gliding. In Hanoi, he negotiated the insane traffic on a motorcycle and took his children on overnight car jaunts to rural villages. He carried Bach sheet music and stopped at churches, asking if he could play. W.H.O. experts flew in from Australia and Germany to help. One scoured Australian drug companies for ribavirin, a toxic antiviral drug that was said to have helped some cases. It did not help Dr. Urbani, though, and was withdrawn.

Then patches showed up on a lung X-ray, and he told his wife to take the children and return to Castelplanio. Instead, she sent them ahead and flew to Bangkok. By the time she arrived, his room had been jury-rigged as an isolation ward. Carpenters had put up double walls of glass, and fans had been placed in the window to force air outside.

The couple could talk only by intercom, and Ms. Chiorrini saw him conscious just once. As his lungs weakened, Dr. Palmer said, he was put on a respirator. In a conscious moment, Dr. Urbani asked for a priest to give him the last rites and, according to the Italian Embassy in Bangkok, said he wanted his lung tissue saved for science.

As fluid filled his lungs, he was put on a powerful ventilator, sedated with morphine. The end came at 11:45 on a Saturday morning. Doctors and nurses heavily shrouded in anti-infection gear pounded on his chest as his heart stopped four times, Dr. Dowell said, but it was useless.

Most of those who had died of SARS were old or had some underlying condition that weakened them, but ''he worked with patients for weeks, and we suspect he got such a massive dose that he didn't have a chance,'' Dr. Palmer said. ''It's very sad,'' Dr. Claus said, ''that to raise awareness as he did, you have to pay such a price.''

COMMEMORATING THE 50TH ANNIVERSARY OF THE FOREIGN AGRICULTURE SERVICE

Mr. COCHRAN. Mr. President, fifty years ago, President Eisenhower and Secretary of Agriculture Ezra Taft Benson had the foresight to acknowledge that the future of American agriculture was dependent on the development of creative marketing tools and foreign markets for U.S. food and agricultural products. With that in mind, the Foreign Agricultural Service, FAS, was created to represent American agricultural interests worldwide.

During the past 50 years, the employees of FAS, working in coordination with partners in the agricultural community and other U.S. international agencies, have crafted important tools and programs to develop and expand foreign markets.

Recognizing the ever changing global economy, FAS has effectively developed the necessary resources to negotiate trade agreements, open and maintain foreign markets, and address international food crises and development needs.

Today, exports of American food and agricultural products have grown from less than $3 billion in 1953 to over $50 billion, experiencing a trade surplus year after year.

The realities of today's global marketplace, as well as the challenges facing American agricultural producers abroad, make the mission and continued success of the Foreign Agriculture Service more important than ever.

Therefore I rise today to submit resolution to congratulate the Foreign Agriculture Service on the 50th anniversary of its creation, and commend its dedicated employees for helping to create benefits for American farmers and ranchers by expanding global markets and reducing barriers to free trade.

I urge my colleagues to support this resolution.

Mr. HARKIN. Mr. President, in recognition of the 50th anniversary of the Foreign Agriculture Service of the U.S. Department of Agriculture on March 10, Senator COCHRAN and I are today submitting Senate resolution to honor that agency's many achievements over the past half century.

During the 83d Congress, President Eisenhower recognized that the productive capacity of the U.S. agricultural sector was outstripping the food and feed needs of our domestic economy. In order to assist American farmers and exporters in identifying, capturing, and maintaining overseas markets for our food and fiber, and thus boost the sector's earnings, Secretary Ezra Taft Benson established the Foreign Agriculture Service, FAS, by memorandum on March 10, 1953. The next year with the passage of the Agriculture Act of 1954, P.L. 83–690, agricultural attachés were transferred from the State Department to the new agency.

The mission of FAS is to serve U.S. agriculture's international interest by expanding export opportunities for U.S. agricultural, aquaculture, and forest products and promoting world food security. Since its inception, the agency has assisted in expanding U.S. agricultural exports from less than $3 billion in 1953 to projected exports valued at $57 billion for 2003, in nominal dollars.

In addition to providing in-country services and market analysis for the key importing countries in the agricultural attaché corps, FAS, through

headquarters staff, conducts trade and food aid programs and works with staff from other USDA agencies to analyze world market trends. While the agency is not solely responsible for our large gains in exports over the past five decades, no one could argue it has not provided a crucial assistance in that effort. I salute the work of past and present FAS employees and look forward to their contributions in the future.

POLITICAL REFORM IN EGYPT

Mr. BUNNING. Mr. President, last week I offered an amendment to S. 762, the fiscal year 2003 supplemental appropriations bill, expressing the sense of the Senate for the need of political reform in Egypt. While I withdrew my amendment, I do intend to pursue this issue when the fiscal year 2004 foreign operations appropriations bill is considered on the floor.

I know a number of my colleagues are similarly concerned with the lack of political reform in Egypt, and I hope we have productive discussions on the Senate floor on how U.S. assistance can be better used to promote the development of democratic institutions and practices in that country. It is in the interests of the people of Egypt—and the United States—that freedom of association and thought are promoted and protected.

I will have more to say on this matter at a later date, and I hope my colleagues will join me in addressing this important issue.

HUMAN RIGHTS IN BURMA

Mr. FEINGOLD. Mr. President, I am deeply disappointed in the human rights record of Burma. Throughout my time in the Senate, I have consistently been critical of political and human rights abuses in Burma. I have been deeply troubled by reports, confirmed by the U.S. Department of State, that Burmese soldiers have systematically raped Shan women on a massive scale. I am also concerned about repeated charges of forced labor, the suppression of civil liberties, and widespread political repression. Recent events in Burma only serve to heighten my concern.

I am concerned by the recent decision by United Nations human rights envoy Paulo Sergio Pinheiro, to suspend his missions to Burma after finding a hidden listening device in a room where he was interviewing political prisoners. The incident raises very serious concerns about the depth of Burma's commitment to improving conditions within its borders. I am also concerned about the case of Dr. Salai Tun Than, an alumnus of the University of Wisconsin-Madison, who was arrested and sentenced in November 2001 after conducting a solitary protest of political conditions in front of Rangoon City Hall.

As a member of the Senate Foreign Relations Committee, I will continue to monitor human rights in Burma, as I have on human rights all over the world. Finally, I would like to offer my praise for students at several University of Wisconsin campuses who are working to highlight conditions in Burma. I am impressed by their dedication and heartened by their commitment to justice and freedom for the Burmese people.

GRANTING CITIZENSHIP TO IMMIGRANT SOLDIERS WHO DIE IN COMBAT

Mr. MILLER. Mr. President, I rise today to share with my colleagues the story of one of my Georgia constituents. It begins with a brave young 3rd Infantry soldier named Diego Rincon.

Diego was a native of Colombia and he came to the United States in 1989 with his family when he was 5 years old. He enjoyed a life of freedom and safety that might not have been possible in Colombia.

Diego was extremely loyal to the country that welcomed him. And after the September 11 attacks, he decided it was time to repay his adopted Nation.

Upon graduation from Salem High School in Conyers, GA, Diego enlisted in the Army. He became a member of the ''Rock of the Marne,'' Fort Stewart's 3rd Infantry Division.

Sadly, Private First Class Rincon was killed March 29 in Iraq by a suicide bomber at a military checkpoint. Diego was 19 years old. Three other members of his 1st Brigade were also killed.

In late February, Diego wrote his final letter home to his mother just as his Brigade was getting ready to move out. Let me read just a little of that letter:

> So I guess the time has finally come for us to see what we are made of, who will crack when the stress level rises and who will be calm all the way through it. Only time will tell.
>
> I try not to think of what may happen in the future, but I can't stand seeing it in my eyes. There's going to be murders, funerals and tears rolling down everybody's eyes. But the only thing I can say is, keep my head up and try to keep the faith and pray for better days. All this will pass. I believe God has a path for me.
>
> Whether I make it or not, it's all part of the plan. It can't be changed, only completed.

This 19-year-old was wise beyond his years.

Diego joined the Army for the noblest of reasons. He fought and died in Iraq while defending our Nation's freedom.

And after his death, his family asked one last request of the Government in return for their son's life—to be able to bury him this Thursday as a U.S. citizen.

I am very pleased and proud to announce today that—with the help of the INS—Private First Class Diego Rincon has been awarded U.S. citizenship. This brave soldier will be buried Thursday as a citizen of our great country.

But there are thousands of noncitizens fighting in our military right now.

So, I, along with my fellow senator from Georgia, Senator CHAMBLISS, have introduced legislation calling for citizenship to be granted immediately to any soldier who fights in our armed services and dies in combat.

For those among our troops who are not citizens and who die on the battlefield, I believe the least we can do is to honor them with posthumous citizenship.

And I believe it should be done automatically by the Government, with no delay and no burden on the families.

Under our bill, the families of these brave soldiers would not have to fill out any forms or make any phone calls.

This citizenship would apply only to the deceased soldier and it would not make the soldier's family eligible for any extra benefits or special treatment.

It is simply a final gesture of thanks and gratitude for the ultimate sacrifice these immigrant soldiers have made for their adopted country.

ADDITIONAL STATEMENTS

TRIBUTE TO JOHN AND SARA BURCHARD

● Mr. JEFFORDS. Mr. President, today I wish to recognize Drs. John and Sara Burchard of Burlington, VT as this year's joint recipients of the Kids on the Block—Vermont ''Puppets' Choice Award.'' This award is conferred annually by Kids on the Block—Vermont, a theatrical troupe, part of a national organization, which performs with puppets to deliver messages of personal safety, diversity, and acceptance of disabilities. As honorees, John and Sara are acknowledged for their outstanding contributions to children and families statewide.

Since their arrival in Vermont in 1970, John and Sara, both long-time professors of psychology at the University of Vermont, have worked tirelessly to improve children's care and families' strength. Describing their contributions as ''outstanding'' is an understatement. Professionally and personally, John and Sara have passionately dedicated themselves to making Vermont's communities better.

John's academic and professional life has focused on children who suffer from emotional and behavioral problems, for whom he has helped develop new methods of care. One example of John's innovation is the ''wrap-around'' approach, bringing care and services to the families, rather than relying on clinics. John also served on the Burlington School Commission and, during the late Richard Snelling's terms as Governor, as Commissioner of the Department of Social and Rehabilitation Services.

Sara's specialty lies with children and adults with developmental disabilities. Sara was an important voice of

reason when she led efforts to enable Vermont to become the first state to close its institutions for the mentally retarded. Helping those with disabilities receive the care they need and deserve has been Sara's calling, and her efforts have been nationally recognized for excellence.

As professors, John and Sara have taught and mentored generations of students who have become compassionate and effective leaders who work with and advocate for the developmentally disabled, children, and their families. Their influence extends will beyond their classrooms and their State, making people's lives healthier and more productive.

Again, I wish Drs. John and Sara Burchard congratulations and my sincerest best wishes. Their tireless work is helping to make Vermont the kind of place that Vermonters are proud to call home.●

HONORING EAST BRUNSWICK HIGH SCHOOL'S SUCCESS IN ''WE THE PEOPLE'' PROGRAM

● Mr. LAUTENBERG. Mr. President, on April 26, 2003, more than 1,200 students from across the United States will visit Washington, DC, to compete in the national finals of the ''We the People: The Citizen and the Constitution'' program. Administered by the Center for Civic Education and funded by the U.S. Department of Education, this program is designed to educate students about the importance and contemporary relevance of the Constitution. The program provides curricular materials at upper elementary, middle, and high school levels and incorporates critical thinking and problem-solving activities to complement the information gathered in classrooms, and gleaned from textbooks.

I am proud to announce that the class from East Brunswick High School will represent my home State of New Jersey in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. They have earned the honor to come to Washington for the national competition, which is modeled after a congressional hearing and includes oral testimony and questioning before a panel of judges.

It is inspiring to see these young people advocate the ideals and principles of our Government, and I wish these budding constitutional experts from East Brunswick, NJ, the best of luck at the ''We the People'' national finals.●

TRIBUTE TO THE WORKERS OF LAN-CAY INC.

● Mr. BUNNING. Mr. President, I rise today in the Senate to pay tribute to the nine employees of Lan-Cay Inc. in Carrollton, KY. This small business in northern Kentucky makes many products that help drive the American military machine.

Many Americans do not realize the important role that many small businesses play in military preparedness. The nine employees of Lan-Cay make parts for grenade launchers, survival tool pouches, equipment used to deactivate land mines, and other important products for all the branches of our military. Lan-Cay is currently making thousands of bayonets for M–16's one at a time.

The employees of Lan-Cay take their jobs very seriously because they know that the quality of their work may one day save a soldier's life. They do not hope for war, but they understand the importance of the nature of their jobs. The employees of Lan-Cay carefully inspect each of their finished products to ensure that it meets the military's strict guidelines.

I ask my colleagues in the Senate to pay tribute to the employees of Lan-Cay and the thousands of employees in many other small businesses across this great nation that produce the necessary products that enable the men and women of our military to perform their tasks as well and as safely as possible.●

A TRIBUTE TO STANLEY HIRSH

● Mrs. FEINSTEIN. Mr. President, I wish to honor Mr. Stanley Hirsh, a California businessman, and publisher of the widely read Los Angeles Jewish Journal, who dedicated his life to others. Mr. Hirsh lost his battle with brain cancer and passed away on March 22nd. Mr. Hirsh left behind his wife, Anita, four children, and four grandchildren. He was 76.

While Mr. Hirsh was a highly successful businessman, he will be remembered, to quote the Jewish Journal, as a ''maverick philanthropist.'' Such a title was earned by Mr. Hirsh's plethora of donations to various charity organizations, his service during World War II in the United States Navy, and his formation of twelve kosher kitchens for Jewish seniors in the Los Angeles area.

In addition to his dedication to philanthropy, Mr. Hirsh sought to positively affect Arab-Israeli relations. In the early nineties, Mr. Hirsh and his family formed the Hirsh Family Early Childhood Development Center in Tel Aviv.

While no single accomplishment defined Mr. Hirsh, his friends remember him as an altruistic man who was steadfast in his leadership. Friend and Congressman HOWARD L. BERMAN recalled Hirsh as ''a real generalist, interested in matters of the greater community.''

Mr. Hirsh's dedication to community service is evidenced by his stint as president at the Jewish Federation, and in the mid 1980s, he chaired the United Jewish Fund General Campaign. Interestingly, Mr. Hirsh was the greatest contributor to the campaign.

Mr. Hirsh owned the Cooper Building in downtown Los Angeles and was a former chairman of the Community Redevelopment Agency in the city of Los Angeles.

Employees of Mr. Hirsh at the Jewish Journal remember him as being obsessed with fair and balanced reporting. Editor-in-Chief of the periodical, Robert Eshman, said that the paper grew ''significantly'' under Stanley's leadership.

People of Stanley Hirsh's caliber do not come very often and while his accomplishments still resonate, and his warmth and kindness honored, Mr. Hirsh will be sorely missed.●

MESSAGES FROM THE HOUSE

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1055. An act to designate the facility of the United States Postal Service located at 1901 West Evans Street in Florence, South Carolina, as the ''Dr. Roswell N. Beck Post Office Building''.

H.R. 1368. An act to designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the ''Norman D. Shumway Post Office Building''.

The message also announced that the House insists upon its amendment to the bill (S. 342) to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes, disagreed to by the Senate, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon: That the following Members be the managers of the conference on the part of the House: From the Committee on Education and the Workforce, for consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. BOEHNER; Mr. HOEKSTRA, Mr. PORTER, Mr. GREENWOOD, Mr. NORWOOD, Mr. GINGREY, Mr. BURNS, Mr. GEORGE MILLER of California, Mr. HINOJOSA, Mrs. DAVIS of California, Mr. RYAN of Ohio, and Mr. DAVIS of Illinois.

At 2:40 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill (H.R. 1559) making emergency wartime supplemental appropriations for the fiscal year ending September 30, 2003, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. YOUNG of Florida, Mr. REGULA, Mr. LEWIS of California, Mr. ROGERS of Kentucky, Mr. WOLF, Mr. KOLBE, Mr. WALSH, Mr. TAYLOR of North Carolina, Mr. HOBSON, Mr. ISTOOK, Mr. BONILLA, Mr. KNOLLENBERG, Mr. KINGSTON, Mr. FRELINGHUYSEN, Mr. OBEY, Mr. MURTHA, Mr. DICKS, Mr. SABO, Mr. MOLLOHAN, Ms. KAPTUR, Mr. VISCLOSKY,

Mrs. LOWEY, Mr. SERRANO, Mr. MORAN of Virginia, and Mr. EDWARDS.

MEASURES REFERRED

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

H.R. 1055. An act to designate the facility of the United States Postal Service located at 1901 West Evans Street in Florence, South Carolina, as the ''Dr. Roswell N. Beck Post Office Building''; to the Committee on Governmental Affairs.

H.R. 1055. An act to designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the ''Norman Shumway Post Office Building''; 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–1794. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Tampa Bay, Port of Tampa, Port of Saint Petersburg, Port Manatee, Rattlesnake, Old Port Tampa, Big Bend, Weedon Island, and Crystal River, FL (COTP Tampa 03–006) (1625–AA00) (2003–0006)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1795. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Including 2 Regulations) [CGD05–02–080] [CGD13–02–018]'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1796. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; (Including 3 regulations) [CGD07–03036] [CGD01–03–009] CGD01–03–011]'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1797. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: (Including 2 Regulations) [CGD13–03–003] [CGD13–03–04]'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1798. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulations Navigation Area: Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel and New Jersey Pierhead Channel, New York and New Jersey (CGD01–03–017)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1799. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Long Island Sound Marine Inspection and Captain of the Port Zone (CGD01–01–187) (1625–AA00)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1800. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Nanticoke River, Seaford, DE (1625–AA09)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1801. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Illinois Waterway, Illinois (CGD08–03–009) (1625–AA09)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1802. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal, NY (CGD01–03–024)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1803. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Coronado Beach Bridge (SR 44), Intracoastal Waterway, New Smyrna Beach, Florida (CGD07–02–077) (1625–AA09)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1804. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives Rolls Royce Deutschland Ltd and CO KG Model Tay 611–8, 620–15, 650–15, and 651–54 Turbofan Engines; Docket No. 2002–NE–37 [3–11/4–3] (2120–AA64)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1805. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives Dassault Model Falcon 2000 and Mystere-Flacon 900 Series Airplanes: Docket No. 2003–NM–53 (2120–AA64) (2003–0155)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1806. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives General Electric Company CF 34–3A1, –3B, and –3B1 Turbofan Engines; Docket No. 2001–NE–21 (2120–AA64) (2003–0153)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1807. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Air Tractor, INC Models AT 300–, 301, 302, 400, and 400A Airplanes; Docket No. 2003–CE–09 (2120–AA64) (2003–0151)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1808. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron Cnada Model 407 Helicopter; Docket no. 2002SW54 (2120AA64) (20030154)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1809. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9 81, –82, –83, –87, and –88 Airplanes; CORRECTION; Docket no. 2002-NM–216 (2120–AA64) (2003–0152)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1810. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Wytwornia Sprzetu Komunikacyjnego PZL–Rzesow S.A. Franklin 6A–350–C1, C1A, C1L, C1R–C2, and 4A–235 Series Reciprocating Engines; Docket No. 2002–NE–20 (2120–AA64) (2003–0149)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1811. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Operating Rules for the Conduct of Instrument Flight Rules Area Navigation operations Using Global Positioning Systems in Alaska; Docket No. FAA–2003–14305 (2120–AH93)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1812. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Aircraft Registration Requirements; Clarification of ''Court of Competent Jurisdiction''; Docket No. FAA–2002–12377 (2120–AH75)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1813. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Part 145 Review: Repair Stations; Delay of effective date; Docket No. FAA–1999–5836 (2120–AC38) (2003–0001)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1814. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (76); Amdt. No. 3047 (2120–AA65) (2003–0015)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1815. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (79); Amdt. 3049 (2120–AA65) (2003–0016)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1816. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (16); Amdt No. 3048 (2120–AA65) (2003–0018)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1817. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach

Procedures; Miscellaneous Amendments (20); Amdt. No. 3050 (2120–AA65) (2003–0017)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1818. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the pollock total allowable catch (TAC) for Statistical Area 630 of the GOA'' received on April 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1819. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the pollock total allowable catch (TAC) for Statistical Area 610 of the GOA'' received on April 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1820. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; United States; Northeast Multispecies Fishery; Commercial Haddock Harvest (I.D.031003B)'' received on April 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1821. A communication from the Chairman, Office of the General Counsel, Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled ''Procedures to expedite Of Rail Rate Challenges To Be Considered Under The StandAlone Cost Methodology (STB Ex Parte No 638)'' received on April 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1822. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''CIVIL PENALTIES (2126–AA81)'' received on April 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1823. A communication from the Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Final Rule to Implement a Seasonal Area Closure to Groundfish Fishing off Cape Sarichef (0648–AQ46)'' received on April 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1824. A communication from the Acting Director, Assistant Secretary, Communications, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Notice of Availability of Funds (RIN 0660–ZA06)'' received on April 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1825. A communication from the Assistant Administrator, Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Trade Agreements Act—Exceptions for U.S. Made End Products (RIN 2700–AC33)''; to the Committee on Commerce, Science, and Transportation.

EC–1826. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Modified Acrylic Polymers; Revision of Tolerance Exemption (FRL 7297–8)'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1827. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Lactic acid, ethyl ester and Lactic acid, n-butyl ester, Exemptions from the Requirement of a Tolerance, Technical Correction (FRL 7298–4)'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1828. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fellowships (FRL 7476–2)'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1829. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans, Rhode Island; One-hour Ozone Attainment Demonstration for the Rhode Island Ozone Nonattainment Area (FRL 7476–7)'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1830. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for Stationary Gas Turbines (FRL 7476–5)'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1831. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances; Correction (FRL 7477–7)'' received on April 4, 2003; to the Committee on Environment and Public Works.

EC–1832. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Decanoic Acid; Exemption from the Requirement of a Pesticide Tolerance; Technical Correction (FRL 7269–9)'' received on April 4, 2003; to the Committee on Environment and Public Works.

EC–1833. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Beaches Environmental Assessment and Coastal Health Act'' received on April 4, 2003; to the Committee on Energy and Natural Resources.

EC–1834. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans, Wisconsin (FRL 7466–6)'' received on April 4, 2003; to the Committee on Environment and Public Works.

EC–1835. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; South Dakota (FRL 7475–1)'' received on April 4, 2003; to the Committee on Environment and Public Works.

EC–1836. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Amendment to 310 CRM 7.06, Visible Emission Rule (FRL 7466–2)'' received on April 4, 2003; to the Committee on Environment and Public Works.

EC–1837. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the Guideline on Air Quality Models: Adoption of a Preferred Long Range Transport Model and Other Revisions (FRL 7478–3)'' received on April 4, 2003; to the Committee on Environment and Public Works.

EC–1838. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Lake County Air Quality Control District and San Diego County Air Pollution Control District (FRL 7471–4)'' received on April 4, 2003; to the Committee on Environment and Public Works.

EC–1839. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled ''Filter Backlash Recycling Rule—Technical Guidance Manual'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1840. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled ''Primary Aluminum Reduction Plants: Air Toxics Amendments Fact Sheet'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1841. A communication from the Assistant Secretary, Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Endangered Status and Designation of Critical Habitat for Polygonum hickmanii (Scotts Valley Polygonum)'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1842. A communication from the Assistant Secretary, Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Kanuai Cave Wolf Spider and Kanuai Cave Amphipod (RIN 1018–AH01)'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1843. A communication from the Assistant Secretary, Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Seven Bexar County, Texas, Invertebrate Species (RIN 1018–AI47)'' received on April 1, 2003; to the Committee on Environment and Public Works.

EC–1844. A communication from the Acting General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Disaster Assistance: Crisis Counseling Regular Program; Amendments to Regulations 68 FR 9899 (RIN 3067–AD32)'' received on April 3, 2003; to the Committee on Environment and Public Works.

EC–1845. A communication from the Executive Vice President, Communications and Government Relations, Tennessee Valley Authority, transmitting, pursuant to law, the report of a Statistical Summary for Fiscal Year 2002; to the Committee on Environment and Public Works.

EC–1846. A communication from the Executive Director, Operations, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of the December 2002 Update of the Staff's Response to the Chairman's Tasking Memorandum; to the Committee on Environment and Public Works.

EC–1847. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the report relative to Security related actions taken by the commission over the past seven months, received on April 3, 2003; to the Committee on Environment and Public Works.

EC–1848. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of the Nuclear Regulatory Commission's latest monthly report, covering December 2002, of the status of its licensing and regulatory duties, received on April 3, 2003; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs:

Report to accompany S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes (Rept. No. 108–35).

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. LEVIN (for himself and Ms. STABENOW):

S. 808. A bill to provide for expansion of Sleeping Bear Dunes National Lakeshore; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM:

S. 809. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. GRASSLEY, Mr. SHELBY, and Mrs. HUTCHISON):

S. 810. A bill to enhance the protection of children against crime by eliminating the statute of limitations for child abduction and sex crimes, providing for registration of child pornographers as sex offenders, establishing a grant program in support of AMBER Alert communications plans, and for other purposes; to the Committee on the Judiciary.

By Mr. ALLARD (for himself and Mr. SESSIONS):

S. 811. A bill to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnership Act, and for other purposes; to the Committee on the Judiciary.

By Ms. COLLINS (for herself, Mr. DASCHLE, Mr. JOHNSON, Mr. NELSON of Florida, and Mr. DURBIN):

S. 812. A bill to amend section 16131 of title 10, United States Code, to increase rates of educational assistance under the program of educational assistance for members of the Selected Reserve; to the Committee on Armed Services.

By Mr. CORZINE:

S. 813. A bill to amend part A of title IV of the Social Security Act to require a State to promote financial education under the temporary assistance to needy families program and to allow financial education to count as a work activity under that program; to the Committee on Finance.

By Mr. SANTORUM:

S. 814. A bill to include Hepatitis A vaccines in the Vaccine Injury Compensation Program under title XXI of the Public Health Service Act; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL:

S. 815. A bill to establish a center for excellence for applied research and training in the use of advanced materials in transport aircraft; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD (for himself, Mr. THOMAS, Mr. HARKIN, Mr. GRASSLEY, Mr. SMITH, Mr. ROCKEFELLER, Mr. ROBERTS, Mr. DASCHLE, Mr. DORGAN, Mr. DOMENICI, Mrs. LINCOLN, Mr. BURNS, Mr. BINGAMAN, Mr. JEFFORDS, Mr. JOHNSON, Mr. LEVIN, Mr. TALENT, Mr. DAYTON, Mr. BOND, Mr. EDWARDS, Mr. COCHRAN, Mr. PRYOR, Mrs. MURRAY, Ms. SNOWE, Mr. COLEMAN, and Ms. CANTWELL):

S. 816. A bill to amend title XVIII of the Social Security Act to protect and preserve access of medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes; to the Committee on Finance.

By Mr. KOHL:

S. 817. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. BOND, Mr. PRYOR, and Mr. HARKIN):

S. 818. A bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration; to the Committee on Small Business and Entrepreneurship.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. LEAHY, and Mr. CAMPBELL):

S. 819. A bill to amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions; to the Committee on Governmental Affairs.

By Mrs. BOXER:

S. 820. A bill to amend the Federal Water Pollution Control Act to establish a perchlorate pollution prevention fund and to establish safety standards applicable to owners and operators of perchlorate storage facilities; to the Committee on Environment and Public Works.

By Mr. HARKIN:

S. 821. A bill to accelerate the commercialization and widespread use of hydrogen energy and fuel cell technologies, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself, Mr. HARKIN, Ms. LANDRIEU, Mr. PRYOR, Mr. LIEBERMAN, Mr. DASCHLE, Mr. BINGAMAN, and Mr. JOHNSON):

S. 822. A bill to create a 3-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans; to the Committee on Small Business and Entrepreneurship.

By Mr. SANTORUM (for himself, Mrs. LINCOLN, Mr. JEFFORDS, Mr. KYL, Mr. COLEMAN, and Mrs. CLINTON):

S. 823. A bill to amend title XVIII of the Social Security Act to provide for the expeditious coverage of new medical technology under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. LOTT, and Mr. ROCKEFELLER):

S. 824. A bill to reauthorize the Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. DURBIN, Mr. FEINGOLD, Mr. KENNEDY, and Mrs. BOXER):

S. 825. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to protect pension benefits of employees in defined benefit plans and to direct the Secretary of the Treasury to enforce the age discrimination requirements of the Internal Revenue Code of 1986; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. INOUYE:

S. Res. 107. A resolution expressing the sense of the Senate to designate the month of November 2003 as ''National Military Family Month''; to the Committee on the Judiciary.

By Mr. BURNS (for himself, Mr. BAUCUS, Mr. BROWNBACK, Mr. HATCH, and Mr. REID):

S. Res. 108. A resolution designating the week of April 21 through April 27, 2003, as ''National Cowboy Poetry Week''; to the Committee on the Judiciary.

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

S. Res. 109. A resolution expressing the sense of the Senate with respect to polio; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL (for himself, Mr. FRIST, Mr. DASCHLE, Mr. STEVENS, Mr. MCCONNELL, Mr. REID, Mr. BYRD, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 110. A resolution honoring Mary Jane Jenkins Ogilvie, wife of former Senate Chaplain, Reverend Dr. Lloyd John Ogilvie; considered and agreed to.

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

S. Con. Res. 34. A concurrent resolution calling for the prosecution of Iraqis and their supporters for war crimes, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 85

At the request of Mr. LUGAR, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 85, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 271

At the request of Mr. SMITH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 331

At the request of Mr. DASCHLE, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 331, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 386

At the request of Mr. CORZINE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 386, a bill to establish a grant program to enhance the financial and retirement literacy of mid-life and older Americans and to reduce financial abuse and fraud among such Americans, and for other purposes.

S. 395

At the request of Mr. GRASSLEY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 395, a bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the credit for producing electricity from wind.

S. 451

At the request of Ms. SNOWE, the name of the Senator from Louisiana (Mr. BREAUX) 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. 480

At the request of Mr. HARKIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 516

At the request of Mrs. BOXER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

S. 569

At the request of Mr. ENSIGN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 587

At the request of Mr. WYDEN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 587, a bill to promote the use of hydrogen fuel cell vehicles, and for other purposes.

S. 646

At the request of Mr. CORZINE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 646, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 721

At the request of Mr. ALLEN, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 721, a bill to amend the Internal Revenue Code of 1986 to expand the combat zone income tax exclusion to include income for the period of transit to the combat zone and to remove the limitation on such exclusion for commissioned officers, and for other purposes.

S. 760

At the request of Mr. GRASSLEY, the names of the Senator from Missouri (Mr. TALENT) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 760, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 789

At the request of Mr. NELSON of Florida, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 789, a bill to change the requirements for naturalization through service in the Armed Forces of the United States.

S. 791

At the request of Mr. INHOFE, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 791, a bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S. CON. RES. 7

At the request of Mr. CAMPBELL, the names of the Senator from Maine (Ms. COLLINS), the Senator from Oregon (Mr. WYDEN), the Senator from Rhode Island (Mr. REED), the Senator from Indiana (Mr. BAYH) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. RES. 97

At the request of Mr. GRAHAM of Florida, his name was added as a cosponsor of S. Res. 97, a resolution expressing the sense of the Senate regarding the arrests of Cuban democracy activists by the Cuban Government.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself and Ms. STABENOW):

S. 808. A bill to provide for expansion of Sleeping Bear Dunes National Lakeshore; to the Committee on Energy and Natural Resources.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Sleeping Bear Dunes expansion bill be printed in the Record.

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

S. 808

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

SECTION 1. EXPANSION OF SLEEPING BEAR DUNES NATIONAL LAKESHORE.

(a) IN GENERAL.—When title to the land described in subsection (b) has vested in the United States in fee simple, the boundary of Sleeping Bear Dunes National Lakeshore is revised to include such land in that park.

(b) LAND DESCRIBED.—The land referred to in subsection (a) consists of approximately 104.45 of unimproved lands generally depicted on National Park Service map number 634/80078, entitled ''Bayberry Mills, Inc. Crystal River, MI Proposed Expansion Unit to Sleeping Bear Dunes National Lakeshore''. The Secretary of the Interior shall keep such map on file and available for public inspection in the appropriate offices of the National Park Service.

(c) PURCHASE OF LANDS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of the Interior may acquire the land described in subsection (b), only by purchase from a willing seller.

(2) BUDGET REQUEST.—The Secretary of the Interior shall include in the National Park Service budget submitted for fiscal year 2004 a request for funds necessary for the acquisition authorized by this subsection.

(d) LIMITATION ON ACQUISITION BY EXCHANGE OR CONVEYANCE.—The Secretary of the Interior may not acquire any of the land described in subsection (b) through any exchange or conveyance of lands that are within the boundary of the Sleeping Bear Dunes National Lakeshore as of the date of the enactment of this Act.

By Mr. DEWINE (for himself, Mr. GRASSLEY, Mr. SHELBY, and Mrs. HUTCHISON):

S. 810. A bill to enhance the protection of children against crime by eliminating the statute of limitations for child abduction and sex crimes, providing for registration of child pornographers as sex offenders, establishing a grant program in support of AMBER Alert communications plans, and for other purposes; to the Committee on the Judiciary.

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

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

S. 810

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 ''Protecting Children Against Crime Act of 2003''.

SEC. 2. NO STATUTE OF LIMITATIONS FOR CHILD ABDUCTION AND SEX CRIMES.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Child abduction and sex offenses

''Notwithstanding any other provision of law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110, or 117, or section 1591.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

''3297. Child abduction and sex offenses.''.

(b) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section.

SEC. 3. REGISTRATION OF CHILD PORNOGRAPHERS IN THE NATIONAL SEX OFFENDER REGISTRY.

(a) JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION PROGRAM.—Section 170101 of subtitle A of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 170101. JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION PROGRAM.'';

and

(2) in subsection (a)(3)—

(A) in clause (vii), by striking ''or'' at the end;

(B) by redesignating clause (viii) as clause (ix); and

(C) by inserting after clause (vii) the following:

''(viii) production or distribution of child pornography, as described in section 2251, 2252, or 2252A of title 18, United States Code; or''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for each of fiscal years 2004 through 2007, such sums as may be necessary to carry out the amendments made by this section.

SEC. 4. GRANT PROGRAM FOR NEW TECHNOLOGIES TO IMPROVE AMBER ALERT COMMUNICATIONS PLANS.

(a) PROGRAM REQUIRED.—The Attorney General of the United States shall carry out a program to provide grants to States for the development or enhancement of programs and activities for the support of AMBER Alert communications plans.

(b) ACTIVITIES.—Activities funded by grants under the program under subsection (a) may include the development and implementation of new technologies to improve AMBER Alert communications.

(c) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent of the total cost thereof.

(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Attorney General shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) ADMINISTRATION.—The Attorney General shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Justice $5,000,000 for each of fiscal years 2004 through 2007, to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 5. NATIONAL RESEARCH COUNCIL STUDY AND REPORT CONCERNING ON-LINE PORNOGRAPHY.

(a) STUDY.—The National Research Council of the National Academy of Sciences shall conduct a study of—

(1) the extent to which it is possible for Internet service providers to monitor Internet traffic to detect illicit child pornography sites on the Internet, and the extent to which they do so;

(2) the extent to which purveyors use credit cards to facilitate the sale of illegal child pornography on the Internet;

(3) which credit card issuers have in place a system to facilitate the identification of purveyors who use credit cards to facilitate the sale of illicit child pornography; and

(4) options for encouraging greater reporting of such illicit transactions to law enforcement officials.

(b) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the National Research Council shall submit a report to the Congress on the study conducted under subsection (a).

SEC. 6. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

By Mr. ALLARD (for himself and Mr. SESSIONS):

S. 811. A bill to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnership Act, and for other purposes; to the Committee on the Judiciary.

Mr. ALLARD. Mr. President, I rise today to introduce the American Dream Downpayment Act. I am pleased to have Senator SESSIONS join me in introducing this bill.

Homeownership has long been the American dream, and we are incredibly fortunate that in America more and more families have been able to achieve the dream of homeownership. In fact, right now more American families own their home than ever before, and that number continues to increase.

However, for some working families, low income families, women-headed households, minority families, urban dwellers, and young families the dream of homeownership remains elusive.

This is particularly true for minority families. While Americans enjoy the world's greatest opportunities for becoming homeowners, only 47 percent of African-American and Hispanic families own their homes, as compared to 75 percent of white families.

We must eliminate this gap in homeownership, so I am pleased to join with President Bush and Secretary Martinez in the initiative to create 5.5 million new minority homeowner families by the end of the decade.

One key component of this initiative is the American Dream Downpayment Initiative, which I am pleased to introduced today in the Senate. This bill will provide $200 million annually to State and local governments for downpayment assistance programs.

One of the greatest barriers for families in becoming homeowners is their inability to afford the downpayment requirements and closing costs. These are hard working families that can make mortgage payments, they simply need assistance with the downpayment and closing costs.

The American Dream Downpayment Initiative will create 40,000 new homeowners each year, focusing on low-income and first-time homebuyers. And because the initiative will be administered through HUD's existing HOME program, it will minimize bureaucracy and duplication while maximizing flexibility for local jurisdictions.

Homeownership has many benefits for cities, neighborhood, and families. In fact, a study released by the Homeownership Alliance revealed that children living in an owned home scored nine percent higher on math tests and seven percent higher in reading achievement.

Homeownership has the power to transform individual lives and to

strengthen entire communities. Increasing homeownership, particularly among minorities, is a top goal for me.

The $200 million for the American Dream Downpayment Fund will help make that dream come true for more American families.

I look forward to the opportunity to working with my colleagues to get the American Dream Downpayment Initiative enacted into law.

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. 811

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 Dream Downpayment Act''.

SEC. 2. DOWNPAYMENT ASSISTANCE INITIATIVE UNDER HOME PROGRAM.

(a) DOWNPAYMENT ASSISTANCE INITIATIVE.—Subtitle E of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12821) is amended to read as follows:

''Subtitle E—Other Assistance

''SEC. 271. DOWNPAYMENT ASSISTANCE INITIATIVE.

''(a) GRANT AUTHORITY.—The Secretary may make grants to participating jurisdictions to assist low-income families to achieve homeownership, in accordance with this section.

''(b) ELIGIBLE ACTIVITIES.—

''(1) IN GENERAL.—Grants made under this section may be used only for downpayment assistance toward the purchase of single family housing by low-income families who are first-time homebuyers.

''(2) DEFINITION.—For purposes of this subtitle, the term 'downpayment assistance' means assistance to help a family acquire a principal residence.

''(c) HOUSING STRATEGY.—To be eligible to receive a grant under this section for a fiscal year, a participating jurisdiction shall include in its comprehensive housing affordability strategy submitted under section 105 for such year, a description of the use of the grant amounts.

''(d) FORMULA ALLOCATION.—

''(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this section for the fiscal year in accordance with a formula, established by the Secretary, that considers a participating jurisdiction's need for and prior commitment to assistance to homebuyers.

''(2) ALLOCATION AMOUNTS.—The formula referred to in paragraph (1) may include minimum and maximum allocation amounts.

''(e) REALLOCATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if any amounts allocated to a participating jurisdiction under this section become available for reallocation, the amounts shall be reallocated to other participating jurisdictions in accordance with the formula established pursuant to subsection (d).

''(2) EXCEPTION.—If a local participating jurisdiction failed to receive amounts allocated under this section and is located in a State that is a participating jurisdiction, the funds shall be reallocated to the State.

''(f) APPLICABILITY OF OTHER PROVISIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this section, grants made under this section shall not be subject to the provisions of this title.

''(2) APPLICABLE PROVISIONS.—In addition to the requirements of this section, grants made under this section shall be subject to the provisions of title I, sections 215(b), 218, 219, 221, 223, 224, and 226(a) of subtitle A of this title, and subtitle F of this title.

''(3) REFERENCES.—In applying the requirements of subtitle A referred to in paragraph (2)—

''(A) any references to funds under subtitle A shall be considered to refer to amounts made available for assistance under this section; and

''(B) any references to funds allocated or reallocated under section 217 or 217(d) shall be considered to refer to amounts allocated or reallocated under subsection (d) or (e) of this section, respectively.

''(g) ADMINISTRATIVE COSTS.—Notwithstanding section 212(c), a participating jurisdiction may use funds under subtitle A for administrative and planning costs of the jurisdiction in carrying out this section, and the limitation in section 212(c) shall be based on the total amount of funds available under subtitle A and this section.

''(h) FUNDING.—

''(1) FISCAL YEAR 2002.—This section constitutes the subsequent legislation authorizing the Downpayment Assistance Initiative referred to in the item relating to the 'HOME Investment Partnerships Program' in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Public Law 107–73; 115 Stat. 666).

''(2) SUBSEQUENT FISCAL YEARS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2003 through 2006.''.

''(b) RELOCATION ASSISTANCE AND DOWNPAYMENT ASSISTANCE.—Subtitle F of title II of the Cranston-Gonzalez National Affordable Housing Act is amended by inserting after section 290 (42 U.S.C. 12840) the following:

''SEC. 291. RELOCATION ASSISTANCE AND DOWNPAYMENT ASSISTANCE.

''The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (84 Stat. 1894) shall not apply to downpayment assistance under this title.''.

By Ms. COLLINS (for herself, Mr. DASCHLE, Mr. JOHNSON, Mr. NELSON of Florida, and Mr. DURBIN):

S. 812. A bill to amend section 16131 of title 10, United States Code, to increase rates of educational assistance under the program of educational assistance for members of the Selected Reserve; to the Committee on Armed Services.

Ms. COLLINS. Mr. President, at a time when our men and women in uniform are fighting valiantly to bring peace and opportunity to an oppressed people and ensure the security of our homeland, I am pleased to introduce the Selected Reserve Educational Assistance Act of 2003 to extend the opportunity of higher education to many of those very same men and women in uniform. This legislation provides our National Guard and Reserve personnel, hundreds of thousands of whom are currently mobilized, deployed, and fighting around the globe, with educational opportunities as intended by the Montgomery GI bill. I am pleased that my colleagues, Senators TOM DASCHLE, TIM JOHNSON, and BILL NELSON, have joined as cosponsors.

Through this legislation, we week to promote both service to country and education in a way that is both logical and fair. Members of our National Guard and Reserve are members of our communities. The skills they learn from military service are reflected in the positions of leadership they assume among us. These citizen-soldiers have demonstrated their commitment to serve and as members of the ''total force'' deserve opportunities to further improve themselves through the civilian educational opportunities the Montgomery GI bill promotes. Service and education are prerequisites of a strong, vibrant democracy. This legislation seeks to further this combined effort.

The original GI bill, known as the Servicemen's Readjustment Act, was enacted in 1944. That bill provided a $500 annual education stipend as well as a $50 subsistence allowance. As a result of this initiative, 7.8 million World War II veterans were able to take advantage of post-service education and training opportunities, including more than 2.2 million veterans who went on to college. My own father was among those veterans who volunteered for the war, fought bravely, and then returned to college with assistance from the GI bill.

Since the 1940's various versions of servicemen's education assistance have allowed millions of veterans to take advantage of educational opportunities. Over time, however, inflation and the escalating costs of higher education have eroded the value of those educational benefits. During the 107th Congress with the enactment of Public Law 107–103 Senator JOHNSON and I, along with many of our colleagues, made great strides returning value to educational assistance benefits available for active component service members and veterans. More remains to be done.

The United States military is an all volunteer force. In times of peace and prosperity and in times of trial, we rely on young men and women to come forward of their own accord to stand up for our collective defense. Though service to country and patriotism, particularly in times of crisis, factor into recruiting this all volunteer force, benefits still do and ought to matter. We must remain vigilant, as we are constantly recruiting new members of our armed forces, ensuring the benefits these individuals receive from military service are commensurate with the service they render to this nation.

At its inception in 1985, the Reserve Montgomery GI bill program, had been pegged at 47 percent of basic active component Montgomery GI bill benefits. During the ensuing 18 years, the parity of the reserve program with its active duty counterpart has slipped. At present the Chapter 1606 program, Selected Reserve Montgomery GI bill, is only about 28 percent of the Chapter 30 program. This legislation attempts to bring the reserve program back in line with the active component benefit.

In each of the last three years over 75,000 National Guard and Reserve members have taken advantage of Veterans Administration educational benefits for pursuing their educational or vocational objectives. While those citizen-soldiers currently mobilized may become eligible for veterans benefits, we must correct the disparity between the active and reserve Montgomery GI bill programs. Only two benefit increases have been legislated in the reserve program since its inception in 1985, other than cost-of-living increases. The reserve Montgomery GI bill benefit for full-time study stands at $276 compared to $985 per month for the Title 38 program. This legislation will bring the reserve Montgomery GI bill benefit to $428 per month in fiscal year 2004 and $473 per month in fiscal year 2005 and continue out-year increases in accordance with advances in the consumer price index.

The Military Coalition comprised of 33 member organizations representing over 5.5 million veterans and family members endorses rate increases and funds for the reserve Montgomery GI bill program so that National Guard and Reserve service members can reap an educational return on their voluntary service to country.

It is time to return reserve educational assistance benefits to the level intended by the original drafting of the Reserve Montgomery GI Bill. Coupling and reinforcing service with higher education will pay dividends for our future security, strength and prosperity. This legislation fulfills the promise made to our Nation's service members, helps with recruiting and retention, strengthens the economy, and partly offsets the increasing costs of higher education.

I urge all Members of the Senate to join me in support of the Selected Reserve Educational Assistance Act of 2003 and quickly pass this legislation.

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

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

S. 812

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

SECTION 1. INCREASE IN RATES OF EDUCATIONAL ASSISTANCE UNDER PROGRAM OF EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

(a) INCREASE IN RATES.—Section 16131(b)(1) of title 10, United States Code, is amended by striking subparagraphs (A) through (C) and inserting the following new subparagraphs (A) through (C):

''(A) For a program of education pursued on a full-time basis, at the monthly rate of—

''(i) for months occurring during fiscal year 2004, $428;

''(ii) for months occurring during fiscal year 2005, $473; and

''(iii) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year, increased under paragraph (2).

''(B) For a program of education pursued on a three-quarter-time basis, at the monthly rate of—

''(i) for months occurring during fiscal year 2004, $321;

''(ii) for months occurring during fiscal year 2005, $355; and

''(iii) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year, increased under paragraph (2).

''(C) For a program of education pursued on a half-time basis, at the monthly rate of—

''(i) for months occurring during fiscal year 2004, $214;

''(ii) for months occurring during fiscal year 2005, $237; and

''(iii) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year, increased under paragraph (2).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003, and shall apply with respect to months that begin on or after the date.

(c) CPI ADJUSTMENT.—No adjustment shall be made under paragraph (2) of section 16131(b) of title 10, United States Code, for fiscal years 2004 and 2005.

By Mr. CORZINE:

S. 813. A bill to amend part A of title IV of the Social Security Act to require a State to promote financial education under the temporary assistance to needy families program and to allow financial education to count as a work activity under that program; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today with my colleagues Senators AKAKA and SARBANES to introduce the Financial Literacy for Self-Sufficiency Act.

Our bill would require States to promote financial education through their TANF, Temporary Assistance to Needy Families, programs. Financial education—education that promotes an understanding of consumer, economic, and personal finance concepts—is extremely important for all families, and is especially important for low-income families who are moving from welfare to work.

While TANF focuses on moving families off cash assistance and into work, it fails to provide recipients with the tools they need to maximize their earnings and manage their expenses in order to achieve financial stability once they are employed. If we truly expect to move these families to achieve financial independence, we must give them the tools they will need to make that transition.

One of these tools is a bank account. Millions of low-income families remain outside of the formal banking system, with many of them spending too much of their hard-earned dollars at costly check cashing operations. In fact, more than eight million families earning under $25,000 a year lack a checking or savings account. A study conducted by the United States Department of the Treasury in 2000 found that a worker earning $12,000 a year would pay approximately $250 a year just to cash their payroll checks at such an outlet. And, nearly 16 percent of the checks cashed at check cashing outlets are government benefit checks—including welfare benefit checks.

In addition to expanding the number of banks that do business in low-income communities, educating low-income unbanked families about the benefits of formal checking and savings accounts can significantly improve access to financial services.

But, financial education isn't just about bank accounts and savings. It is also about protecting low-income families form predatory lending and devastating credit arrangements. Financial education that addresses abusive lending practices can help prevent unaffordable loan payments, equity stripping, and foreclosure. I strongly support legislative efforts to end predatory lending practices in our country, but until we do, ensuring that consumers are aware of unfair and abusive loan terms is a measure that will provide them some protection from these tactics.

Finally, families leaving welfare for work face many challenges, including securing child care and transportation. One challenge that often is not mentioned, however, is the challenge of transitioning from a benefits-based income to a wage income. Financial literacy programs that educate families transitioning from welfare to work about taxes and tax benefits that they may be eligible for, such as the Dependent Care Tax Credit and the Earned Income Tax Credit, will ensure that they have access to these important work benefits.

The Financial Literacy for Self-Sufficiency Act will allow States to use their TANF funds to collaborate with community-based organizations, banks, and community colleges to create financial education programs for low-income families receiving welfare and for those transitioning from welfare to work. As Federal Reserve Chairman Alan Greenspan Chairman Greenspan has noted, ''Educational and training programs may be the most critical service offered by community-based organizations to enhance the ability of low-income households to accumulate assets.''

I hope members of the Senate Finance Committee will join my colleagues and me in promoting financial education for our nation's TANF recipients when they act to create a reauthorization framework for our nation's welfare program.

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. 813

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 ''TANF Financial Education Promotion Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Most recipients of assistance under the temporary assistance to needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and individuals moving toward self-sufficiency operate outside the financial mainstream, paying high costs to handle their finances and saving little for emergencies or the future.

(2) Currently, personal debt levels and bankruptcy filing rates are high and savings rates are at their lowest levels in 70 years. The inability of many households to budget, save, and invest prevents them from laying the foundation for a secure financial future.

(3) Financial planning can help families meet near-term obligations and maximize their longer-term well being, especially valuable for populations that have traditionally been underserved by our financial system.

(4) Financial education can give individuals the necessary financial tools to create household budgets, initiate savings plans, and acquire assets.

(5) Financial education can prevent vulnerable customers from becoming entangled in financially devastating credit arrangements.

(6) Financial education that addresses abusive lending practices targeted at specific neighborhoods or vulnerable segments of the population can prevent unaffordable payments, equity stripping, and foreclosure.

(7) Financial education speaks to the broader purpose of the temporary assistance to needy families program to equip individuals with the tools to succeed and support themselves and their families in self-sufficiency.

SEC. 3. REQUIREMENT TO PROMOTE FINANCIAL EDUCATION UNDER TANF.

(a) STATE PLAN.—Section 402(a)(1)(A) of the Social Security Act (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

''(vii) Establish goals and take action to promote financial education, as defined in section 407(j), among parents and caretakers receiving assistance under the program through collaboration with community-based organizations, financial institutions, and the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.''.

(b) INCLUSION OF FINANCIAL EDUCATION AS A WORK ACTIVITY.—Section 407 of the Social Security Act (42 U.S.C 607) is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''or (12)'' and inserting ''(12), or (13)''; and

(B) in subparagraph (B), by striking ''or (12)'' each place it appears and inserting ''(12), or (13)'';

(2) in subsection (d)—

(A) in paragraph (11), by striking ''and'' at the end;

(B) in paragraph (12), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(13) financial education, as defined in subsection (j).''; and

(3) by adding at the end the following:

''(j) DEFINITION OF FINANCIAL EDUCATION.—In this part, the term 'financial education' means education that promotes an understanding of consumer, economic, and personal finance concepts, including the basic principles involved with earning, budgeting, spending, saving, investing, and taxation.''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2003.

By Mr. CONRAD (for himself, Mr. THOMAS, Mr. HARKIN, Mr. GRASSLEY, Mr. SMITH, Mr. ROCKEFELLER, Mr. ROBERTS, Mr. DASCHLE, Mr. DORGAN, Mr. DOMENICI, Mrs. LINCOLN, Mr. BURNS, Mr. BINGAMAN, Mr. JEFFORDS, Mr. JOHNSON, Mr. LEVIN, Mr. TALENT, Mr. DAYTON, Mr. BOND, Mr. EDWARDS, Mr. COCHRAN, Mr. PRYOR, Mrs. MURRAY, Ms. SNOWE, Mr. COLEMAN, and Ms. CANTWELL):

S. 816. A bill to amend title XVII of the Social Security Act to protect and preserve access of Medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, today, Senator THOMAS and I would like to introduce the Health Care Access and Rural Equity, (H–CARE), Act of 2003.

This proposal is the result of a tripartisan and Bicameral effort. We are proud to be joined by 24 Members who also support the bill, including—Senators HARKIN, GRASSLEY, ROBERTS, DASCHLE, DORGAN, SMITH, JOHNSON, LINCOLN, DOMENICI, ROCKEFELLER, BURNS, BINGAMAN, JEFFORDS, COCHRAN, LEVIN, TALENT, EDWARDS, BOND, PRYOR, DAYTON, SNOWE, CANTWELL and MURRAY. I would also like to thank our House companions, led by Representatives MORAN (R–KS), and POMEROY.

Working together, I believe we are taking important steps toward improving access to health care in our rural communities.

In addition, I would like to thank the National Rural Health Association, the Federation of American Hospitals, the American Hospital Association, Premier Hospital Alliance and the Coalition representing Sole Community Hospitals for their support of this effort.

As my colleagues may know, rural health care providers are often forced to operate with significantly less resources that larger, urban facilities. In my State of North Dakota, rural hospitals often receive only half the reimbursement of their urban counterparts—for treating the same patient. For example, a rural facility in North Dakota receives approximately $4,200 for treating pneumona, while a hospital in New York City can receive more than $8,500.

This funding disparity is simply unfair and has placed many rural providers on shaky ground. Continued funding shortfalls have resulted in rural providers having much tighter inpatient cost margins than their urban counterparts—today, the average rural hospital operates with a slim 3.9 percent cost margin compared to 11.3 percent for urban providers). This situation has resulted in more than 43 percent of rural hospitals operating in the red.

When you look at overall cost margins, the situation is even more bleak—rural providers are working with an average negative 2.9 percent Medicare margin, compared to 6.3 percent for urban hospitals). Our rural facilities cannot continue to provide high quality services if they lose nearly 3 percent on every Medicare patient they serve.

To address these problems, the bill we are introducing today would take many important steps to improve the rural health care system.

First, it would provide a much-needed low-volume adjustment payment. Today, it is nearly impossible for rural hospitals to take advantage of economies of scale realized by facilities located in larger communities. This situation has resulted in the majority of small facilities losing money. To address this problem, our bill would provide a new, extra payment to hospitals serving less than 2,000 patients per year. This provision would provide up to 25 percent in additional funding to help rural providers cover inpatient hospital services.

Second, H–CARE would close the gap in payments hospitals receive for serving low-income patients. It would do this by allowing rural hospitals to receive the same level of special ''Disproportionate Share—or DISH Payments'' currently available to urban providers.

Third, our legislation would take steps to permanently equalize the ''base payment amount,'' which has been 1.6 times higher for urban facilities. The recent Omnibus bill temporarily fixed this problem—but only until the end of FY03. Our bill finishes the job.

Fourth, this legislation would help hospitals better meet labor costs by making some needed improvements to the Medicare ''wage index'' calculation. Across the Nation, rural hospitals have reported that the wage index does not accurately account for labor costs in their area. Our bill takes steps to address this problem.

Fifth, our bill would ensure that rural hospitals continue to be paid fairly for outpatient services. It does this by extending a provision in current law that protects these hospitals against losses under the current Medicare payment system. It also includes measures to protect rural hospitals' access to lab services.

I am happy to say that this set of proposals would go a long way toward placing rural facilities on much sounder financial footing. Let me provide some examples.

Today, the average small hospital located in the Midwest receives $3,926 as an average payment for inpatient services. If all the changes laid out in our bill are enacted, this will improve payments to smaller rural hospitals by about 25 percent.

If you look at a more specific service—such as treating pneumonia—this same hospital would see payments increase from about $4,326 to $5,405. These increases are clearly big improvements, which will bring reimbursements for rural hospitals more in line with their costs.

Before I close, I'd also like to mention that this bill would establish a new grant program to help rural hospitals repair crumbling buildings. Under this program, rural providers

could apply for up to $5m in loan assistance. It is my hope these resources will help strengthen the infrastructure of our Nation's rural hospitals.

Finally, our bill includes a set of provisions that will make small—but important—changes to the Critical Access Hospital, CAH, program. These include measures to ensure CAHs have 24-hour emergency on-call providers and to ensure they can afford to provide quality ambulance care.

In total, the changes laid out in our bill will bring more than $72 million in new resources to my State of North Dakota over the next ten years. The bill will provide similar benefits to other rural States.

Thank you again to my Senate and House colleagues, as well as the organizations who worked with us, for your cooperation in developing this important health care proposal. It is my hope that this legislation will help to strengthen and sustain our Nation's rural health care system.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the ''Health Care Access and Rural Equity Act (H–CARE) of 2003'' with Senator CONRAD and fellow Senate Rural Health Caucus members, Senators HARKIN, GRASSLEY, JOHNSON, ROBERTS, DOMENICI, DASCHLE, BINGAMAN, BOND, LINCOLN, COCHRAN, BURNS, ROCKEFELLER, JEFFORDS, TALENT, LEVIN, SMITH, DAYTON, SNOWE, EDWARDS, CANTWELL, DORGAN, COLEMAN and MURRAY. As always, it is important to note that rural health care legislation has a long history of bipartisan and bicameral collaboration and cooperation.

The ''Health Care Access and Rural Equity Act of 2003'' will go a long way in addressing current inequities in the Medicare payment system that continually place rural providers at a disadvantage. This legislation recognizes the unique needs of rural hospitals and levels the playing field between them and their urban counterparts.

Rural hospitals are more dependent on Medicare payments as part of their total revenue. In fact, Medicare accounts for almost 70 percent of total revenue for small, rural hospitals. Rural hospitals have lower patient volumes, but must compete nationally to recruit providers due to the nursing and other health professional workforce shortages.

Additional burdens are placed on rural hospitals because of higher uninsured rates in rural America. Also, seniors living in rural areas tend to be poorer and have more chronic conditions than their urban and suburban counterparts.

H–CARE recognizes the special circumstances faced by rural hospitals and addresses these issues by equalizing Medicare Disproportionate Share Hospital, DSH, payments. These add-on payments help hospitals cover the costs of serving a high proportion of low income and uninsured patients. Current law allows urban facilities to receive unlimited add-ons based on the percentage of these types of patients served. However, small, rural hospital add-on payments are capped at 10 percent. H–CARE eliminates the Sole Community Hospital and small rural hospital caps, bringing their payments in line with the benefits urban facilities received.

This legislation permanently closes the gap between urban and rural ''standardized payment'' levels. Inpatient hospital payments are calculated by multiplying several different factors, including a standardized payment amount. The fiscal year 2003 appropriations bill corrected the 1.6 percent disparity, but the provision expires at the end of the fiscal year.

Our bill also acknowledges that low-volume hospitals have a higher cost per case, which results in negative operation margins. To alleviate this problem, H–CARE creates a low-volume inpatient payment adjustment for hospitals that have less than 2,000 annual discharges per year and are located more than 15 miles from another hospital. This provision will improve payments for more than one-third of all rural hospitals. Almost two-thirds of Wyoming hospitals would qualify for the low-volume provisions in H–CARE, which would result in $26.5 million in increased payments over 10 years.

Rural hospitals have long sought changes to the wage index which adjusts hospital inpatient payments to reflect the effect of their labor costs. Currently, the labor-related share of hospital inpatient payments is set nationally at 71 percent. As rural hospitals generally have a lower wage index than their urban counterparts, their inpatient payment is adjusted downward. H–CARE would lower the labor-related percent from 71 percent to 62 percent, which will increase payments to rural hospitals.

There are now more than 700 hospitals nationwide that have converted to Critical Access Hospital status. This program was created in the Balanced Budget Act of 1997 and allows our smallest communities crucial access to 24 hour emergency services and some hospital care in their home towns. Almost 25 percent of my State's hospitals have downsized to Critical Access Hospital status. H–CARE contains several provisions to strengthen this important rural hospital program.

It is time for the Federal Government to recognize that rural hospitals are long overdue for a fair shake from the Medicare program. Rural providers care for patients under different circumstances than urban hospitals and H–CARE ensures that rural hospitals are paid accurately and fairly. I strongly encourage all my colleagues with an interest in rural health to cosponsor this legislation.

I also want to thank the American Hospital Association, the Federation of American Hospitals, Premier and the National Rural Health Association for their work and support in this effort.

By Mr. KOHL:

S. 817. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the Sunshine in Litigation Act of 2003, a measure to address the abuse of secrecy orders issued by federal courts. All too often, courts sign off on secret settlements that shield important public health and safety information from the public view from mothers and fathers and children whose lives are potentially at stake, and from public officials we have asked to protect our health and safety.

The problem is a simple one and has been recurring for decades. An individual brings a cause of action against a manufacturer for an injury or fatality resulting from a product defect. The plaintiff, often reticent to continue the litigation process because of grief or lack of resources, settles the lawsuit quickly. In exchange, the defendant insists that the plaintiff agree to the inclusion of a confidentiality clause. This mechanism prevents either party from disclosing information revealed during the process of litigation. Both of the parties to the lawsuit believe that they have ''won'': the plaintiff won a satisfactory financial settlement, and the defendant won the right to conceal ''smoking gun'' documents.

But not everybody wins. Future victims of injuries or fatalities resulting from the same product defect lose, because they or their families must ''reinvent the wheel'' as they litigate virtually the same case. Even worse, the American public loses with this outcome, because they remain unaware of the critical public health and safety information which could prevent harm and save lives.

Currently, judges have broad discretion in granting protective orders when ''good cause'' is shown. But these protective orders are being misused. Tobacco companies, automobile manufacturers and pharmaceutical companies have settled with victims and used the legal system to hide information which, if it became public, could protect the American public but endanger their business or reputation. We can all agree that the only appropriate use for such orders is to protect trade secrets and other truly confidential company information and our legislation makes sure it is protected. But protective orders are certainly not supposed to be used to hide public safety information from the public, especially when such information is neither trade secret nor proprietary.

There are no records kept of the number of confidentiality orders accepted by state or federal courts. However, anecdotal evidence suggests that court secrecy and confidential settlements are prevalent. Let me share some examples that illustrate the dangerous and often deadly consequences

that result from protective orders: Although an internal memo suggests that General Motors, ''GM'', was aware of the risk of fire deaths from crashes of pickup trucks with ''side saddle'' fuel tanks, an estimated 750 people were killed in fires involving these fuel tanks. When victims sued, GM disclosed documents only under protective orders and settled these cases only on the condition that these documents remained secret. This type of fuel tank was installed for 15 years before being discontinued.

Sixteen month-old Michael Bancroft was buckled into a Kolcraft booster-style safety seat in his mother's car when the car was involved in an accident. Due to a defect in product design, however, the seat did not protect him from a broken neck and paralysis. Kolcraft and the Bancrofts settled for $4.25 million and signed a confidentiality agreement that concealed the product's defect. Because this information remained a secret, countless parents continued to feel a false sense of safety when securing their children in Kolcraft safety seats.

From 1992–2000, tread separation of certain Bridgestone and Firestone tires caused a great number of car accidents, many involving serious injuries or fatalities. Bridgestone/Firestone quietly settled dozens of lawsuits resulting from faulty tire crashes, most of which included secrecy agreements. It was only in 1999, when a Houston public television broke the story, that the company admitted the defect and recalled 6.5 million tires.

Some States have been proactive in dealing with this problem. Florida, for example, has in place a Sunshine in Litigation law that severely limits the ability of parties to conceal information that effects public health and safety. Michigan has a rule that requires that secret settlements be unsealed two years after they are approved. And just last year, the judges of the United States District Court for the District of South Carolina unanimously agreed not to accept any secret settlements at all.

While these steps indicate movement in the right direction, we still have a long way to go. It is time to initiate a federal solution for this problem. The Sunshine in Litigation Act is a modest proposal that would require Federal judges to perform a simple balancing test to ensure that the defendant's interest in secrecy truly outweighs the public interest in information related to public health and safety. Specifically, prior to making any portion of a case confidential or sealed, a judge would have to determine by making a particularized finding of fact—that doing so would not restrict the disclosure of information relevant to public health and safety. Moreover, all courts, both Federal and State, would be prohibited from issuing protective orders that prevent disclosure to relevant regulatory agencies.

And don't just take it from me. During his confirmation hearings before the Judiciary Committee in January 2001, Attorney General John Ashcroft voiced his support for this legislation, saying, ''I think unnecessarily hiding or otherwise concealing from the public those [public health and safety hazards] would be against the interests of the people . . . I think there's great danger in not providing public information.''

This legislation does not prohibit secrecy agreements across the board. It does not place an undue burden on judges or our courts. It simply states that where the public interest in disclosure outweighs legitimate interests in secrecy, courts should not shield important health and safety information from the public and from regulators. This is an entirely reasonable balancing test. It is time to eliminate the dark dangers of court secrecy and bring matters of public health and safety into the light, where they belong.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. BOND, Mr. PRYOR, and Mr. HARKIN:

S 818. A bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise to introduce the ''Independent Office of Advocacy Act of 2003.'' The SBA's Office of Advocacy is, unfortunately, one of our government's best kept secrets, and in many cases, the best hope for small businesses faced with over burdensome Federal regulations. The Office of Advocacy serves two critical roles: 1. it represents small business' interests before the Federal government in regulatory matters—taking advantage of its statutorily granted independence to argue against regulatory actions that impose too great a burden on small businesses to our economy and the forces that have an effect on them.

This bill is designed to build on the success achieved by the Office of Advocacy over the past 26 years and to strengthen that foundation by making the Office of Advocacy a stronger, more effective advocate for all small businesses throughout the United States. This bill was approved unanimously by the Senate during the 106th and 107th Congresses. However, regrettably, the House failed to act in both cases.

The Office of Advocacy, headed by the Chief Counsel for Advocacy, is a unique office with the Federal government. It is part of the SBA, and the Chief Counsel for Advocacy is nominated by the President and confirmed by the Senate. At the same time, the Office is also intended to be the independent voice for small business within the Federal Government. It is supposed to develop proposals for changing government policies to help small businesses, and it is supposed to represent the views and interests of small businesses before other Federal agencies in rulemaking activities. These roles can sometimes come into conflict.

The ''Independent Office of Advocacy Act of 2003'' resolves such conflicts in favor of the small businesses that rely on the Chief Counsel and the Office of Advocacy to be a fully independent advocate within the Executive Branch acting on their behalf. The bill would establish a clear mandate that the Office of Advocacy must fight on behalf of small businesses, regardless of the position taken on critical issues by the President and his or her Administration.

The Office of Advocacy, under the direction of the Chief Counsel, as envisioned by the ''Independent Office of Advocacy Act of 2003'', would be a wide-ranging advocate, free to take positions contrary to the Administration's policies and to advocate change in government programs and attitudes as they affect small businesses. During its consideration of the bill in 1999, the Committee on Small Business adopted unanimously an amendment to require the Chief Counsel to be appointed ''from civilian life.'' This qualification is intended to emphasize that the person nominated to serve in this important role should have a strong small business background.

In 1976, Congress established the Office of Advocacy in the SBA to be the eyes, ears and voice for small business within the Federal government. Since then, the Office of Advocacy has become the ''independent'' voice for small business. Unfortunately, in certain cases, the Office has not been as independent as necessary to do the job for small business.

For example, funding for the Office of Advocacy currently comes from the Salaries and Expense Account of the SBA's budget. Staffing is allocated by the SBA Administrator to the Office of Advocacy from the overall staff allocation for the Agency. In 1990, there were 70 full-time employees working on behalf of small businesses in the Office of Advocacy. The current allocation of staff is 49, and fewer are actually onboard as the result of the long-standing hiring freeze at the SBA. The independence of the Office is diminished when the Office of Advocacy staff is reduced to allow for increased staffing for new programs and additional initiatives in other areas of SBA, at the discretion of the Administrator.

To address this problem, the ''Independent Office of Advocacy Act of 2003'' builds a firewall to prevent political intrusion into the management of day-to-day operations of the Office of Advocacy similar to the one that protects Inspectors General. The bill would require the Federal budget to include a separate account for the Office of Advocacy drawn directly from General Fund of the Treasury. No longer would its funds come from the general operating account of the SBA. This will free the Chief Counsel for Advocacy from having to seek approval from the SBA Administrator to hire staff for the Office of Advocacy.

Additionally, the bill provides that any funds appropriated will remain available without fiscal year limitation until expended. This will give the Chief Counsel the flexibility to use these funds as necessary instead of being forced to spend them, perhaps prematurely, because of the coming end of a fiscal year.

The bill would leave unchanged current law that allows the Chief Counsel to hire individuals critical to the mission of the Office of advocacy without going through the normal competitive procedures directed by Federal law and the Office of Personnel Management, OPM. This long-standing special hiring authority, which is limited only to employees within the Office of Advocacy, is beneficial because it allows the Chief Counsel to hire quickly those persons who can best assist the Office in responding to changing issues and problems confronting small businesses.

As the New Chair of the Senate Committee on Small Business and Entrepreneurship, I have heard repeatedly about the importance of the Office of Advocacy and the vital role it plays for small enterprises and the self employed across the nation. With these comments in mind, I am committed to ensuring the complete independence of the Office of Advocacy in all matters, at all times, for the continued benefit of all small businesses. However, so long as any administration controls the budget allocated to the Office of Advocacy, the independence of the Office may be in jeopardy. We must correct this situation, and the sooner we do it, the better it will be for the small business community.

In addition to resolving the critical funding issues, the ''Independent Office of Advocacy Act of 2003'' would direct the Chief Counsel to submit an annual report on Federal agency compliance with the Regulatory Flexibility Act, RFA, to the President, the Senate Committee on Small Business and Entrepreneurship, House Committee on Small Business, the Senate Committee on Governmental Affairs, the House Committee on Government Reform, and the Senate and House Committees on the Judiciary.

The RFA is a very important weapon in the war against the over-regulation of small businesses. It requires agencies to analyze their regulations to determine their impact on small businesses before they are proposed and to explore alternatives to reduce the regulatory burden. In August, 2002, President Bush issued Executive Order 13272, which requires Federal agencies to establish plans detailing how they will handle their obligations under the Regulatory Flexibility Act and directs the Office of Advocacy to work with the agencies in developing these plans. In addition, the Executive Order directs the agencies to respond to comments from the Office of Advocacy regarding the agencies' analyses. Thus, there is even more reason today to have the Chief Counsel report to the President and Congress on how Federal agencies are complying with the Regulatory Flexibility Act than there was when this bill was introduced in previous Congresses.

The ''Independent Office of Advocacy Act of 2003'' is a sound bill. It is the product of a great deal of thoughtful, objective review and consideration by me; the former Chairman of the Committee on Small Business and Entrepreneurship, Senator BOND; staff of the Committee; representatives of the small business community; former Chief Counsels for Advocacy and many others. In short, this bill has been thoroughly vetted in my Committee and has been approved unanimously by the Senate in 1999 and 2001. It is time we see this bill enacted into law, and I urge my colleagues to support this important legislation for America's small businesses and entrepreneurs. I look forward to moving this bill through the Senate again, and hope that the third time will lead to the President's desk.

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. 818

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 ''Independent Office of Advocacy Act of 2003''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) excessive regulations continue to burden United States small business concerns;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small entities;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the ''Office'') is an effective advocate for small entities, including small business concerns, that can help to ensure that agencies are responsive to small business concerns and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code, and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small business concerns without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small business concerns; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small business concerns.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure that the Office has the statutory independence and adequate financial resources to advocate for and on behalf of small business concerns;

(2) to require that the Office report to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small business concerns and the necessity for corrective action by the regulatory agency or the Congress;

(3) to provide a separate authorization for appropriations for the Office;

(4) to authorize the Office to report to the President and to the Congress regarding agency compliance with chapter 6 of title 5, United States Code; and

(5) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

SEC. 4. OFFICE OF ADVOCACY.

(a) IN GENERAL.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking sections 201 through 203 and inserting the following:

''SEC. 201. SHORT TITLE.

''This title may be cited as the 'Office of Advocacy Act'.

''SEC. 202. DEFINITIONS.

''In this title—

''(1) the term 'Administration' means the Small Business Administration;

''(2) the term 'Administrator' means the Administrator of the Small Business Administration;

''(3) the term 'Chief Counsel' means the Chief Counsel for Advocacy appointed under section 203;

''(4) the term 'Office' means the Office of Advocacy established under section 203; and

''(5) the term 'small business concern' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

''SEC. 203. ESTABLISHMENT OF OFFICE OF ADVOCACY.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established in the Administration an Office of Advocacy.

''(2) APPROPRIATION REQUESTS.—Each budget of the United States Government submitted by the President under section 1105 of title 31, United States Code, shall include a separate statement of the amount of appropriations requested for the Office of Advocacy, which shall be designated in a separate account in the General Fund of the Treasury.

''(b) CHIEF COUNSEL FOR ADVOCACY.—

''(1) IN GENERAL.—The management of the Office shall be vested in a Chief Counsel for Advocacy, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of the office.

''(2) EMPLOYMENT RESTRICTION.—The individual appointed to the office of Chief Counsel may not serve as an officer or employee of the Administration during the 5-year period preceding the date of appointment.

''(c) PRIMARY FUNCTIONS.—The Office shall—

''(1) examine the role of small business concerns in the economy of the United States and the contribution that small business concerns can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing the means by which new and untested products and services can be brought to the marketplace;

''(2) assess the effectiveness of Federal subsidy and assistance programs for small business concerns and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance

programs designed to benefit all small business concerns;

''(3) measure the direct costs and other effects of government regulation of small business concerns, and make legislative, regulatory, and nonlegislative proposals for eliminating the excessive or unnecessary regulation of small business concerns;

''(4) determine the impact of the tax structure on small business concerns and make legislative, regulatory, and other proposals for altering the tax structure to enable all small business concerns to realize their potential for contributing to the improvement of the Nation's economic well-being;

''(5) study the ability of financial markets and institutions to meet the credit needs of small business concerns, and determine the impact of government demands on credit for small business concerns;

''(6) determine financial resource availability and recommend, with respect to small business concerns, methods for—

''(A) delivery of financial assistance, including methods for securing equity capital, to small business concerns—

''(i) owned and controlled by socially and economically disadvantaged individuals;

''(ii) owned and controlled by women;

''(iii) owned and controlled by veterans; or

''(iv) designated as HUBZone small business concerns by the Administration;

''(B) generating markets for goods and services;

''(C) providing effective business education, more effective management and technical assistance, and training; and

''(D) assistance in complying with Federal, State, and local laws;

''(7) evaluate the efforts of Federal agencies and the private sector to assist small business concerns—

''(i) owned and controlled by socially and economically disadvantaged individuals;

''(ii) owned and controlled by women;

''(iii) owned and controlled by veterans; or

''(iv) designated as HUBZone small business concerns by the Administration;

''(8) make such recommendations as may be appropriate to assist the development and strengthening of small business concerns—

''(i) owned and controlled by socially and economically disadvantaged individuals;

''(ii) owned and controlled by women;

''(iii) owned and controlled by veterans; or

''(iv) designated as HUBZone small business concerns by the Administration;

''(9) recommend specific measures for creating an environment in which all small business concerns will have the opportunity—

''(A) to compete effectively and expand to their full potential; and

''(B) to ascertain any common reasons for the successes and failures of small business concerns;

''(10) determine the desirability of developing a set of rational, objective criteria to be used to define the term 'small business concern', and develop such criteria, if appropriate;

''(11) make recommendations and submit reports to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator with respect to issues and regulations affecting small business concerns and the necessity for corrective action by the Administrator, any Federal department or agency, or the Congress; and

''(12) evaluate the efforts of each department and agency of the United States, and of private industry, to assist small business concerns owned and controlled by veterans, as defined in section 3(q) of the Small Business Act (15 U.S.C. 632(q)), and small business concerns owned and controlled by service-disabled veterans, as defined in such section 3(q), and to provide statistical information on the utilization of such programs by such small business concerns, and to make appropriate recommendations to the Administrator and to the Congress in order to promote the establishment and growth of those small business concerns.

''(d) ADDITIONAL FUNCTIONS.—The Office shall, on a continuing basis—

''(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department or agency of the Federal Government that affects small business concerns;

''(2) counsel small business concerns on the means by which to resolve questions and problems concerning the relationship between small business and the Federal Government;

''(3) develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of this title and communicate such proposals to the appropriate Federal agencies;

''(4) represent the views and interests of small business concerns before other Federal agencies whose policies and activities may affect small business;

''(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small business concerns, and information on the means by which small business concerns can participate in or make use of such programs and services; and

''(6) carry out the responsibilities of the Office under chapter 6 of title 5, United States Code.

''(e) OVERHEAD AND ADMINISTRATIVE SUPPORT.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.''.

(b) REPORTS TO CONGRESS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 206 and inserting the following:

''SEC. 206. REPORTS TO CONGRESS.

''(a) ANNUAL REPORTS.—Not less than annually, the Chief Counsel shall submit to the President and to the Committees on Small Business of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives, a report on agency compliance with chapter 6 of title 5, United States Code.

''(b) ADDITIONAL REPORTS.—In addition to the reports required under subsection (a) of this section and section 203(c)(11), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

''(c) PROHIBITION.—No report under this title shall be submitted to the Office of Management and Budget or to any other department or agency of the Federal Government for any purpose before submission of the report to the President and to the Congress.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

''SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Office to carry out this title, such sums as may be necessary for each fiscal year.

''(b) AVAILABILITY.—Any amount appropriated under subsection (a) shall remain available, without fiscal year limitation, until expended.''.

(d) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of enactment of this Act shall continue to serve in that position after such date in accordance with section 203 of the Office of Advocacy Act, as amended by this section.

Mr. KERRY. Mr. President, I am pleased to join with my friend and colleague, Chairwoman of the Senate Committee on Small Business and Entrepreneurship, OLYMPIA SNOWE, in reintroducing the ''Independent Office of Advocacy Act'', which our Committee and the full Senate endorsed unanimously last Congress. This legislation will help ensure the Small Business Administration's, SBA, Office of Advocacy has the necessary autonomy to remain an independent voice for America's small businesses. I would like to thank Senator SNOWE and her staff for working with me and my staff to make the necessary changes to this legislation to garner bipartisan support.

The independent Office of Advocacy Act rewrites the law that created the Small Business Administration's Office of Advocacy to allow for increased autonomy. It reaffirms the Office's statutory and financial independence by creating a separate funding account for the Office from the General Fund of the Treasury instead of being allocated through the SBA's annual appropriation.

At its heart, this legislation will allow the Office of Advocacy to better represent small business interests before Congress, Federal agencies, and the Federal Government without fear of reprisal for disagreeing with the position of any current Administration.

For those of my colleagues without an intimate knowledge of the critical role the Office of Advocacy and its Chief Counsel play in protecting and promoting America's small businesses, I will briefly elaborate its important functions and achievements. From studying the role of small business in the U.S. economy, to promoting small business exports, to advocating for the best interests of small business in a myriad of areas, to lightening the regulatory burden of small businesses through the Regulatory Flexibility Act, RFA, and the Small Business Regulatory Enforcement Fairness Act, SBREFA, the Office of Advocacy has a wide scope of authority and responsibility.

The U.S. Congress created the Office of Advocacy, headed by a Chief Counsel to be appointed by the President from the private sector and confirmed by the Senate, in June of 1976. The rationale was to give small businesses a louder voice in the councils of government.

Each year, the Office of Advocacy advises Congress and the executive branch regarding policy issues affecting small businesses, brings together

small business people with members of Congress, congressional staff and executive branch officials to resolve issues affecting small business, publishes numerous studies and reports, compiles vast amounts of data and successfully lightens the regulatory burden on America's small businesses. In the area of contracting, the Office of Advocacy developed PRO-Net, a database of small businesses used by Federal contracting officers to find small business interests interested in selling to the Federal Government.

The U.S. Congress, the Administration, and, of course, small businesses have all benefited from the work of the Office of Advocacy. In October 2001, an Advocacy research study titled, The Impact of Regulatory Costs on Small Business, established that small businesses with less than 20 employees spend nearly $7,000 each year, per employee just to comply with Federal regulations and mandates. By working with Federal agencies to implement the Regulatory Flexibility Act, the Office of Advocacy in 2002 saved small businesses over $21 billion in foregone regulatory costs that can now be used to create jobs, buy equipment and expand access to health care for millions of Americans.

Small businesses remain the backbone of the U.S. economy. According to a study conducted by the Small business Administration Office of Economic Research and released in January 2003, small businesses account for approximately 99 percent of all employers, account for 51 percent of private-sector output, represent 52 percent of GDP and, in 2002, provided two-thirds of all net new jobs.

Small businesses have also taken the lead in moving people from welfare to work and an increasing number of women and minorities are turning to small business ownership as a means to gain economic self-sufficiency. Put simply, small businesses represent what is best in the United States economy, providing innovation, competition and entrepreneurship.

Their interests are vast, their activities divergent, and the difficulties they face to stay in business are numerous. To provide the necessary support to help them, SBA's Office of Advocacy needs our support.

The responsibility and authority given the Office of Advocacy and the Chief Counsel are crucial to their ability to be an effective independent voice in the Federal Government for small businesses. This bill has been endorsed by the U.S. Chamber of Commerce, the Small Business Legislative Council and the National Federation of Independent Businesses. Small businesses are asking us to do everything we can to protect and strengthen this essential office. I believe this legislation accomplishes that important goal.

I have always been a strong supporter of the Office of Advocacy and I am pleased to join with Chairwoman SNOWE in introducing this legislation, which will ensure that the Office of Advocacy remains an independent and effective voice representing America's small businesses.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. LEAHY, and Mr. CAMPBELL):

S. 819. A bill to amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions; to the Committee on Governmental Affairs.

Ms. MIKULSKI. Mr. President, I rise today to introduce the Law Enforcement Officers Retirement Equity act of 2003. I am proud to be joined on this bill by my colleagues, Senators SARBANES, LEAHY and CAMPBELL. This legislation will ensure that all Federal law enforcement officers have the same retirement options and that their pay and benefits conform with the Federal law enforcement retirement system.

Under current law, most Federal law enforcement officers and firefighters are eligible to retire at age 50 with 20 years of Federal service. But, some Federal law enforcement personnel, such as customs and immigration inspectors at the Department of Homeland Security or police officers at Veterans Affairs, are not eligible for these same benefits. This legislation will amend current law and grant the same pay and 20-year retirement to all law enforcement officers.

We must honor our Federal law enforcement personnel. The names of Federal law enforcement officials who have died in the line of duty are engraved on the Law Enforcement Memorial. We include the names of the officers from Homeland Security and Veterans Affairs. We honor them when they die, but we don't recognize them when they are living.

We need to make sure that all Federal law enforcement officers earn the pay and benefits that they deserve. These brave men and women are the country's first line of defense against terrorism and the smuggling of illegal drugs at our borders. They have the same law enforcement training as all other law enforcement personnel, and face the same risks and challenges.

For example, U.S. Customs inspectors are responsible for the most arrests performed by Customs Service employees. Yet, they do not qualify for law enforcement officer status. Along with U.S. customs agents, uniformed U.S. Customs inspectors are helping provide additional security at the Nation's airports and help enforce U.S. customs laws. They were among the first to respond to the tragedy at the World Trade Center. After September 11, Customs inspectors are playing a critical role in ensuring that terrorists don't get their hands on weapons of mass destruction and smuggle them into the country.

In 2002, the U.S. Custom Service impounded over 4,100 pounds of heroin and 167,000 pounds of cocaine, and confiscated over 39,000 firearms and 6.4 million rounds of ammunition. In fact, on a typical day, employees of the Customs Service inspect over 57,000 trucks and containers. Customers inspectors are vital in winning the war on drugs and keeping America safe from terrorism.

Like customs inspectors, immigration inspectors at the Department of Homeland Security are also on the front lines of defense against terrorism. Immigration inspectors enforce the Nation's immigration laws at more than 300 ports of entry. In the normal course of their duties, they enforce criminal law, make arrests, interrogate applicants for entry, search persons and effects, and seize evidence. Inspector's responsibilities have become increasing complex as political, economic and social unrest has increased globally. The threat of terrorism only increases these responsibilities.

These immigration inspectors help secure our borders. In FY 2001, over 510 million inspections were performed by these inspectors with 700,000 individuals denied entry, and approximately 71,000 criminal aliens were removed from the country.

This legislation is cost effective. Any cost that is created by this act is more than offset by savings in training costs and increased revenue collection. A 20-year retirement bill for these critical employees will reduce turnover, increase productivity, decrease employee recruitment and development costs, and enhance the retention of a well-trained and experienced work force. These vital Federal employees bear the same risks and work under similar conditions to other law enforcement officials and deserve to receive the same level of benefits.

This bill will improve the effectiveness of our inspector and revenue officer work force to ensure the integrity of our borders and proper collection of the taxes and duties owed to the Federal Government. This bill is supported by the Fraternal Orders of Police and the National Treasury Employees Union. I urge my colleagues to join me again in this Congress in expressing support for this bill and finally getting it enacted.

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. 819

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 ''Law Enforcement Officers Retirement Equity Act''.

SEC. 2. AMENDMENTS.

(a) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (17) of section 8401 of title 5, United States Code, is amended by striking ''and'' at the end of subparagraph (C), and by adding at the end the following:

''(E) an employee (not otherwise covered by this paragraph)—

''(i) the duties of whose position include the investigation or apprehension of individuals suspected or convicted of offenses against the criminal laws of the United States; and

''(ii) who is authorized to carry a firearm; and

''(F) an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns;''.

(2) CONFORMING AMENDMENT.—Section 8401(17)(C) of title 5, United States Code, is amended by striking ''(A) and (B)'' and inserting ''(A), (B), (E), and (F)''.

(b) CIVIL SERVICE RETIREMENT SYSTEM.—Paragraph (20) of section 8331 of title 5, United States Code, is amended by inserting after ''position.'' the following: ''For the purpose of this paragraph, the employees described in the preceding provision of this paragraph (in the matter before 'including') shall be considered to include an employee (not otherwise covered by this paragraph) who satisfies clauses (i) and (ii) of section 8401(17)(E) and an employee of the Internal Revenue Service the duties of whose position are as described in section 8401(17)(F).''.

(c) EFFECTIVE DATE.—Except as provided in section 3, the amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply only in the case of any individual first appointed (or seeking to be first appointed) as a law enforcement officer (within the meaning of those amendments) on or after such date.

SEC. 3. TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.

(a) LAW ENFORCEMENT OFFICER AND SERVICE DESCRIBED.—

(1) LAW ENFORCEMENT OFFICER.—Any reference to a law enforcement officer described in this subsection refers to an individual who satisfies the requirements of section 8331(20) or 8401(17) of title 5, United States Code (relating to the definition of a law enforcement officer) by virtue of the amendments made by section 2.

(2) SERVICE.—Any reference to service described in this subsection refers to service performed as a law enforcement officer (as described in this subsection).

(b) INCUMBENT DEFINED.—For purposes of this section, the term ''incumbent'' means an individual who—

(1) is first appointed as a law enforcement officer (as described in subsection (a)) before the date of the enactment of this Act; and

(2) is serving as such a law enforcement officer on such date.

(c) TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.—

(1) IN GENERAL.—Service described in subsection (a) which is performed by an incumbent on or after the date of the enactment of this Act shall, for all purposes (other than those to which paragraph (2) pertains), be treated as service performed as a law enforcement officer (within the meaning of section 8331(20) or 8401(17) of title 5, United States Code, as appropriate), irrespective of how such service is treated under paragraph (2).

(2) RETIREMENT.—Service described in subsection (a) which is performed by an incumbent before, on, or after the date of the enactment of this Act shall, for purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, be treated as service performed as a law enforcement officer (within the meaning of such section 8331(20) or 8401(17), as appropriate), but only if an appropriate written election is submitted to the Office of Personnel Management within 5 years after the date of the enactment of this Act or before separation from Government service, whichever is earlier.

(d) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—An individual who makes an election under subsection (c)(2) may, with respect to prior service performed by such individual, contribute to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if the amendments made by section 2 had then been in effect.

(2) EFFECT OF NOT CONTRIBUTING.—If no part of or less than the full amount required under paragraph (1) is paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be reduced in a manner similar to that described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(3) PRIOR SERVICE DEFINED.—For purposes of this section, the term ''prior service'' means, with respect to any individual who makes an election under subsection (c)(2), service (described in subsection (a)) performed by such individual before the date as of which appropriate retirement deductions begin to be made in accordance with such election.

(e) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—If an incumbent makes an election under subsection (c)(2), the agency in or under which that individual was serving at the time of any prior service (referred to in subsection (d)) shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under paragraph (2) with respect to such service.

(2) AMOUNT REQUIRED.—The amount an agency is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (over and above those actually paid) that would have been required if the amendments made by section 2 had then been in effect.

(3) CONTRIBUTIONS TO BE MADE RATABLY.—Government contributions under this subsection on behalf of an incumbent shall be made by the agency ratably (on at least an annual basis) over the 10-year period beginning on the date referred to in subsection (d)(3).

(f) EXEMPTION FROM MANDATORY SEPARATION.—Nothing in section 8335(b) or 8425(b) of title 5, United States Code, shall cause the involuntary separation of a law enforcement officer (as described in subsection (a)) before the end of the 3-year period beginning on the date of the enactment of this Act.

(g) REGULATIONS.—The Office of Personnel Mangement shall prescribe regulations to carry out this Act, including—

(1) provisions in accordance with which interest on any amount under subsection (d) or (e) shall be computed, based on section 8334(e) of title 5, United States Code; and

(2) provisions for the application of this section in the case of—

(A) any individual who—

(i) satisfies paragraph (1) (but not paragraph (2)) of subsection (b); and

(ii) serves as a law enforcement officer (as described in subsection (a)) after the date of the enactment of this Act; and

(B) any individual entitled to a survivor annuity (based on the service of an incumbent, or of an individual under subparagraph (A), who dies before making an election under subsection (c)(2)), to the extent of any rights that would then be available to the decedent (if still living).

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply in the case of a reemployed annuitant.

By Mrs. BOXER:

S. 820. A bill to amend the Federal Water Pollution Control Act to establish a perchlorate pollution prevention fund and to establish safety standards applicable to owners and operators of perchlorate storage facilities; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing legislation guaranteeing a community's right-to-know about pollution discharges, seepage and potential drinking water contamination by the toxic chemical perchlorate.

Perchlorate is the main ingredient in rocket fuel, which accounts for 90 percent of its use. Perchlorate is also used in lesser amounts for ammunition, fireworks, and other products. It dissolves readily in many liquids, including water, and moves easily and quickly.

The sources of drinking water for up to 10 million Californians and millions of other Americans are contaminated with perchlorate. Alarming levels of perchlorate have been discovered in Lake Mead and the Colorado River, the drinking water source for millions of Southern Californians. Communities in the Inland Empire, San Gabriel Valley, Santa Clara Valley, and the Sacramento area are also grappling with perchlorate contamination. In addition, more than 20 million Americans in at least 19 states drink water contaminated with perchlorate.

Perchlorate is a clear and present danger to California's public health. Perchlorate poses a variety of serious health risks relating to thyroid function, especially in newborns, children, and pregnant women. Exposure to perchlorate interferes with the thyroid gland's ability to produce the hormones needed for normal prenatal development. This can cause both physical and mental retardation. Perchlorate is also linked to thyroid cancer.

Despite the gravity of the situation, we currently have no way of knowing who is dumping it or where they are dumping it. We cannot wait four more years to address this threat while EPA continues to delay regulation and clean ups. Communities need to get moving to protect their drinking water sooner rather than later. Guaranteeing a community the right-to-know about potential perchlorate contamination is a first step.

My bill would do just this. First, my bill addresses the legacy of perchlorate contamination by requiring anyone who has stored more than 375 pounds of perchlorate since January 1, 1950, to report annually to the U.S. EPA, beginning no later than June 1, 2005. This does not apply to facilities that store

perchlorate for a retail or law enforcement purpose. EPA must annually publish the list of all perchlorate storage facilities in existence since January 1, 1950, beginning no later than June 1, 2005.

Second, my bill would also require anyone who discharges perchlorate into the water to report the discharge, its volume, monitoring methods, and remedial actions to the EPA. EPA must publish this information annually in the Federal Register beginning no later than June 1, 2005.

Third, failure to report as required under my bill would result in fines. All fines will be deposited into a loan fund for public water suppliers and private well owners to pay for clean water when their water supply is shut down because of perchlorate contamination.

Communities have a right to know what is in their water and where it comes from. My bill will ensure that communities have the necessary information to act now to address the health threat of perchlorate. I look forward to working with my colleagues to pass this important legislation.

By Mr. HARKIN:

S. 821. A bill to accelerate the commercialization and widespread use of hydrogen energy and fuel cell technologies, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HARKIN. Mr. President, imagine a world with cars that spew out no smog, no toxic emissions, and no greenhouse gases. The only thing that would come out of the tailpipe would be water pure enough to drink.

Imagine a world in which we don't import a drop of Mideast oil, because clean, domestic, renewable energy sources meet all of our needs.

Imagine a world in which we don't need to worry about a terrorist strike on our large nuclear power plants, or a storm causing a blackout over a large region, because we get all of our electricity from small distributed generators on farms and in buildings throughout the country.

Sound too good to be true? The technology to do this, using hydrogen energy and fuel cells, is out of the labs and being tested on our streets and in our buildings today. For those of us who have been working for many years to bring this vision into reality, that is very exciting. But we still need a major effort to bring the costs down and commercialize the technology.

And there is remarkable bipartisan agreement on the need for government action. A couple years ago we were fighting for scraps of funding. Now the President has proposed $1.7 billion over 5 years toward getting hydrogen fuel cell vehicles on the road. The Senate energy bill last year, before it died in conference, included tax incentives for stationary fuel cells, fuel cell vehicles, hydrogen vehicles, hydrogen fueling infrastructure, and hydrogen fuel.

But we are still too timid to bring about the fundamental shift to the hydrogen economy. The Department of Energy is working toward a go-no go decision by the car companies by 2015, and mass production of vehicles by 2020. But the car companies themselves have been talking about commercial vehicles by 2010.

We need a bolder, more comprehensive plan. That's why I am introducing the Hydrogen and Fuel Cell Energy Act of 2003. This bill addresses three critical requirements to bringing hydrogen energy and fuel cells into commerce, and start gaining their environmental and security benefits, as soon as technically feasible.

First we need a technological push. We need better fuel cell stack components to reduce costs and improve longevity. We need lighter, more efficient ways to store hydrogen on-board vehicles. In the long term, we need cheaper ways of converting renewable energy to hydrogen fuel.

This bill reauthorizes the Matsunaga Act, which established the Federal hydrogen energy research program. It updates the language and sets clearer priorities. It expands the authorization to cover fuel cell research and development as well, to reflect the technical and bureaucratic reality that research on fuel cells—the most efficient, flexible, and cleanest way to use hydrogen energy—has become inextricably linked to research on hydrogen energy. It supports work on domestic and international codes and standards, to work through a major regulatory barrier to working with combustible hydrogen and to making all the infrastructure pieces fit together. It includes a specific mandate to do public education on hydrogen and fuel cells and to do university training in critical skills needed in the industry. And it increases funding levels over the next few years to accelerate progress in pre-commercial technologies.

Second, and perhaps most important right now, we need a near-term demand pull. As long as the fuel cells and hydrogen appliances are made by hand, they will remain very expensive. But it's also expensive to build the factories to build them more cheaply. We need support to get industry over that initial cost hump.

The first step is large demonstration programs that serve a dual purpose: they provide a realistic test of how the laboratory technologies work in the real world, and they provide funding for pre-commercial prototypes of the technologies, including starting to build a hydrogen fueling infrastructure.

The Hydrogen and Fuel Cell Energy Act authorizes several new, large demonstration programs:

The main demostration program would provide over $1 billion over 7 years for demonstrations of the full range of fuel cell applications and associated hydrogen infrastructure. These demonstrations would include fleets of fuel cell passenger vehicles, fuel cell buses and farm vehicles, stationary fuel cells in houses and commercial buildings, and portable fuel cells such as auxiliary power units in trucks.

A second, closely related program, would provide hydrogen fueling infrastructure over major transportation corridors and entire regions, and then demonstrate hydrogen-powered vehicles that are not tethered to a single pump. Early demonstrations, at least, would likely use vehicles that burn hydrogen; these are similar to gas-electric hybrids that you can buy today, but run on hydrogen rather than gasoline. These vehicles provide most of the benefits of fuel cell vehicles at a fraction of the current cost. They are not as good as fuel cell vehicles in the long term, they are less efficient, less flexible, and produce a little pollution, but would move us a long way toward the goal and would provide a good large-scale test of a hydrogen fueling system.

A third program would demonstrate hydrogen and fuel cell technologies in foreign countries. Hydrogen energy could have an early application in places where a competing fossil fuel infrastructure is not already well-developed. And assisting this application is in our national interest in order to promote global development without causing global warming and other harmful environmental effects, and to increase the global market for American hydrogen and fuel cell technologies.

The last program would focus on emerging technologies for production of hydrogen from renewable resources. Two approaches show particular promise for clean, efficient production of hydrogen at this time. Biorefineries make hydrogen and other products from biomass. And in ''electrofarming'' the hydrogen is produced and used on the same farm. The hydrogen might be made by growing and reforming biomass, from wind energy, or from farm waste; it could be used in farm vehicles and equipment and for heat and electricity in farm buildings.

All these demonstration programs would be conducted using competitive merit review of funding proposals from a wide variety of companies and organizations, and they would require cost-sharing from awardees.

Third, we need to show there will be a market for commercial hydrogen and fuel cell technologies in the long term. The Federal Government can do this by buying early commercial products and by providing incentives to others to do so, in recognition of their public benefits.

The bill includes Federal purchase requirements for both zero emission vehicles and stationary fuel cells. The vehicle requirements are similar to Federal fleet requirements for purchase of alternative fuel vehicles. They would require zero emission vehicles, most likely hydrogen fuel cell vehicles, to make up an increasing percentage of Federal fleet vehicle purchases up to 75 percent. Alternative fuel vehicles with very low emissions, such as hydrogen hybrid vehicles, would get partial credit. For stationary fuel cells, the bill

would require modifying energy efficiency regulations for Federal buildings to presume use of fuel cells to power new Federal buildings and to encourage their use in older buildings.

The bill also provides a broad array of tax incentives for stationary and portable fuel cells, hydrogen and fuel cell vehicles, hydrogen fueling infrastructure, and hydrogen fuel. These incentives are similar to those that have been proposed in the CLEAR Act on alternative fuel vehicles, in previous bills on stationary fuel cells, and in last year's energy bill. However, this bill makes some important changes. It makes all the tax credits tradable so that government agencies and nonprofit organizations can use them as well as consumers and private companies. It increases the credit for hydrogen fueling infrastructure to recognize the cost of making the hydrogen onsite, not just pumping it. It adds an additional incentive for hydrogen from renewable resources to encourage a transition to a sustainable hydrogen system. And most importantly, it extends the tax credits so the industry will know the incentives will be there when they are needed—when real commercial products are available.

Finally, the bill ensures effective coordination and oversight of the expanded Federal hydrogen and fuel cell energy activities, with a new interagency task force to coordinate activities, a revamped technical advisory panel, and periodic outside review by the National Academies.

These measures will require a significant Federal investment in our energy future. But with these measures we can use hydrogen and fuel cell technologies to turn into reality a vision of cars that don't pollute, of power that won't go out, and of feeling less dependent on an area of the world where we are fighting the second war in recent years. It is time to take these steps now.

By Mr. KERRY (for himself, Mr. HARKIN, Ms. LANDRIEU, Mr. PRYOR, Mr. LIEBERMAN, Mr. DASCHLE, Mr. BINGAMAN, and Mr. JOHNSON):

S. 822. A bill to create a 3-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, with most of the country's attention focused on the war in Iraq, important issues at home are falling through the cracks. Today I rise to talk about one of the needs of working moms and dads and their children—child care. We have a shortage of childcare in this country, and it is a problem for our families, a problem for our businesses, and a problem for our economy. The Census Bureau estimates that there are approximately 24 million school age children with parents who are in the workforce or pursuing education, and the numbers are growing. There has been a 43 percent increase in dual-earner families and single parent families over the last half a century. As parents leave the home for work and education, the need for quality child care in America continues to increase.

As the Ranking Democrat of the Committee on Small Business and Entrepreneurship, I think we can foster the establishment and expansion of existing child care businesses through the Small Business Administration, SBA. Today with Senators HARKIN, LANDRIEU, PRYOR, LIEBERMAN, DASCHLE, BINGAMAN, and JOHNSON. I am introducing the Child Care Lending Pilot Act of 2003, a bill to create a three-year pilot that allows small, nonprofit child care providers to access financing through SBA's 504 loans.

There is a real need to help finance the purchase of buildings, to expand existing facilities and improve the conditions of established centers to meet the demand for child care. It is appropriate to provide financing through the 504 program because it was created to spur economic development and rebuild communities, and child care is critical to businesses and their employees. Financing through 504 could spur the establishment and growth of child care businesses because the program requires the borrower to put down only between 10 and 20 percent of the loan, making the investment more affordable. Another advantage of 504 loans is that they have terms of up to 20 years, with fixed interest rates, allowing small businesses to keep their monthly payments low and predictable.

As anyone with children knows, quality childcare comes at a very high cost to a family, and it is especially burdensome to low-income families. The Children's Defense Fund has estimated that child care for a 4-year-old in a child care center averages $4,000 to $6,000 per year in cities and states around the Nation. In all but one state, the average annual cost of child care in urban area child care centers is more than the average annual cost of public college tuition.

These high costs make access to child care all but non-existent for low-income families. While some states have made efforts to provide grants and loans to assist childcare businesses, more must be done to increase the supply of childcare and improve the quality of programs for low-income families. According to the Child Care Bureau, state and federal funds are so insufficient that only one out of 10 children in low-income working families who are eligible for assistance under federal law receives it.

For parts of the country, when affordable child care is available, it is provided through non-profit child care businesses. I formed a task force in my home state of Massachusetts to study the state of child care, and of the many important findings, we discovered that more than 60 percent of the child care providers are non-profit and that there is a real need to help them finance the purchase of buildings or expand their existing space. Child care in general is not a high-earning industry, and the owners don't have spare money lying around. Asking centers to charge less or cut back on employees is not the way to make child care more affordable for families and does not serve the children well. An adequate staff is needed to make sure children receive proper supervision and support. Furthermore, if centers are asked to lower their operating costs in order to lower costs to families, the safety and quality of the child care provided would be in jeopardy.

I urge my colleagues to join us in supporting this legislation so non-profit childcare providers can access funds to start new centers or expand and improve upon existing centers. As we have done in Massachusetts, Senators could bring together 504 lenders, childcare providers not for-profit and non-profit—and the state department of child welfare to facilitate the increase of childcare providers in their states.

As common sense tells us, and the child advocates if we listen, there is no magic bullet to addressing the shortage of safe and affordable child care in this country—it takes coordinated and complementary efforts to make a real difference. This is as much a child welfare issue as a workforce issue, and it makes sense to leverage one of SBA's effective resources to try and contribute to making a positive difference. I argue—we argue—that allowing nonprofit child care centers to receive SBA loans can increase the availability of child care in the United States. Nonprofit child care centers provide the same quality of care as the for-profit centers, and non-profit centers often serve our nation's neediest communities. I hope that my colleagues will recognize the vital role that early education plays in the development of fine minds and productive citizens and realize that in this great nation, child care should be available to all families in all income brackets.

I ask unanimous consent that several letters of support be printed in the RECORD. These letters demonstrate that this is a good investment and good for our country.

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

OMNI BANK, N.A.,
Houston, Texas, July 30, 2002.

Hon. JOHN F. KERRY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERRY: Please accept this letter as my full support of the bill, soon to be introduced, proposing a Pilot Program, operating through the Small Business Administration's 504 Loan Program, that would allow Day Care facilities designated as nonprofits to be eligible for the program.

I believe the demand for such a product is strong, and is fiscally sound. My reasons are as follows:

1. Day Care Centers must carry a non-profit designation in order to accept children to the center from low-income families.

2. These businesses benefit low-income neighborhoods and enterprise zones by purchasing property, improving the physical appearance of the community and providing safe facilities for the children. The ability to utilize the SBA–504 program would enable these businesses to decrease lease/payment expense and hence, help more children.

3. These families are in the most need for quality day care facilities in their community, since many use mass transit to get to work.

4. Small businesses have provided most of the job growth in this country in the last ten years. By enabling these Day Care Centers to operate efficiently and provide quality facilities, we will be helping small business gain and maintain employees.

5. Designation as a non-profit business does not equate to an inability to pay loans, or other business expenses.

OMNIBANK, a 50-year-old community bank in Houston, Texas, has experienced a consistent demand for loans to Day Care Centers. Most loan requests from these entities are for the purpose of acquiring or expanding property (real-estate) or acquiring transportation equipment. An example of a specific, recent request follows:

The Executive Director and Owner of Teeter Totter Day Care Center approached OMNIBANK about a loan to purchase the building used to house the Center. The owner, an African-American woman, was experienced in this business. Cash flow to service the debt was sufficient and appropriate under prudent leading guidelines. The only deterrent from making a conventional loan was the amount available for down payment. Twenty percent or more is usually required.

Under the SBA–504 Program, a ten percent down payment is allowed and standard procedure for multi-use buildings. Additionally, it offers a fixed rate on the SBA portion of the loan. Most small businesses do not have access to fixed rate mortgages, due to the size of the loan requests, which enhances the attractiveness of the SBA–504 Program even further.

As we were preparing the request package, we realized that a non-profit did not quality. The owner would personally guarantee the loan, and even agreed to form a for profit corporation to hold the property, because the underlying tenant was non-profit it would not work. The owner could not change Teeter Totter into a for profit corporation without jeopardizing its subsidies for low-income children.

OMNIBANK and the day care center are located in Houston's fifth ward, most of which is classified as low to moderate income. Its population is primarily low-income African Americans and Hispanics. The project was viewed by the Bank as a good loan from a business perspective, with many additional benefits to the community at large.

Ultimately, after appealing to SBA for an exception, and spending a great deal of time on the project, the loan was not completed. This delayed a good project from improving many aspects of an already underserved community, due to a simple tax classification.

As stated earlier, OMNIBANK receives consistent requests from day care centers, most of which are non-profit. I believe that a Pilot Program as proposed, will prove that these are viable and valuable businesses. I would recommend that all other standard criteria, proven track record, cash flow, management expertise, etc. remain.

I look forward to any questions you may have, or any further examples I can provide.

Sincerely,

JULIE A. CRIPE
President and Chief Operating Officer.

GUILD OF ST. AGNES,
Worcester, MA, July 3, 2002.

Senator JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: It has come to my attention that your committee is working on legislation that would expand the SBA 504 loan program to non-profit child care centers.

As the Executive Director of the Guild of St. Agnes Child Care Agency and a member of the Advisory Committee on Child Care and Small Business, wholeheartedly support this legislation. The Guild of St. Agnes is a non-profit child care agency providing child care in Worcester, MA and its surrounding towns. Presently we care for 1200 children aged four weeks to twelve years in child care centers, family care providers' homes and public schools. Of our seven centers, we currently own one.

Four of our centers are in old, worn-down buildings, causing us difficulty in recruiting new clients. As we look towards the future, the Guild of St. Agnes has set a goal of replacing these centers with new buildings. In order to accomplish this goal, we need to look for creative funding sources to support our capital campaign. The SBA 504 loan program would allow us to invest 10 percent of our own funds for capital expenses, borrow 50 percent from the government and secure a bank loan for 40 percent. Not only is this loan program attractive to banking institutions, it allows child care agencies like the Guild of St. Agnes to continue to grow during these economically challenging times.

I urge you to support the SBA 504 loan program legislation. The future of non-profit child care agencies such as the Guild of St. Agnes depends no it!

Sincerely,

EDWARD P. MADAUS,
Executive Director.

ACCION USA,
Boston, MA, July 8, 2002.

Hon. JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: My name is Erika Eurkus, and as a member of your Advisory Committee on Child Care and Small Business, I am writing to voice my support of expanding the SBA 504 loan program to include nonprofit child care centers.

I am the greater Boston program director for ACCION USA, a nonprofit ''micro'' lender whose mission is to make access to credit a permanent resource to low- and moderate-income small business owners in the United States—helping to narrow the income gap and provide economic opportunity to small business owners throughout the country. Many of the struggling entrepreneurs we serve are the owners of small, family-based day care centers.

At ACCION, I regularly come into contact with women and men whose dream is to operate a successful child care center—to provide a service to the community while making a better life from something they love to do. Often, what keeps these hardworking entrepreneurs from fully realizing that dream is a lack of working capital to begin and grow their businesses. Microlenders like ACCION are the only place they can turn for the crucial capital they need for their businesses. Mauro Leija, an ACCION client in San Antonio, Texas, has tried—and failed—to secure capital from commercial banks. ''The loan officer at the bank said, 'Be realistic—you'll never get a loan. You have no college diploma, no capital, no history with any bank,''' Mauro remembers. This lack of economic opportunity is too often the reality for countless child care providers—most of whom earn an average of $3 per hour for their services.

With increased access to capital through the expansion of the SBA 504 loan program, small, nonprofit day care centers can continue to provide their valuable services to the community—and build a better life for their own families at the same time. Suzanne Morris of Springfield, Massachusetts, a longtime ACCION USA borrower, already illustrates the potential successes that an expanded SBA 504—and an opportunity for capital—will bring to day care owners across the country. After years of hard work and several small loans from ACCION, Suzanne has moved her day care out of the home and has expanded her staff to include seven members of the community. The business supports her family of four. She also gives back by training other local home-based day care providers in Federal nutrition guidelines.

It is my hope that we can all witness more successes like those of Suzanne by opening the door to funding for small day care providers. Please include nonprofit child care centers in the scope of SBA 504.

Sincerely,

ERIKA EURKUS,
Greater Boston Program Director.

NEIGHBORHOOD BUSINESS BUILDERS,
Boston, MA, July 10, 2002.

Senator JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: I am writing on behalf of Neighborhood Business Builders and the Jewish Vocational Service of Boston in support of legislation to expand availability of SBA 504 loans to non-profit child care centers.

I am currently the Director of Loan Funds at Neighborhood Business Builders, which is an economic development program and US SBA Intermediary Microlender. I have been lending and consulting to small businesses for the past year after fifteen years in the private sector as founder of three different companies in Boston and Los Angeles. I have an MPA from the Kennedy School at Harvard University.

I am on Senator Kerry's Child Care and Small Business Advisory Committee, and am Co-chair of the Sub Committee on Family Child Care.

I support legislative change to the 504 loan program because our committee has uncovered a need for government support of nonprofit child care centers. The basic reason for this is that, while we recognize a demand for child care in every part of the country, we do not consider that the market fails to profitably supply child care in every part of the country.

For-profit entities are able to access the capital they need by: (1) Demonstrating demand for the service provided and (2) Demonstrating ability to service market rate debt with acceptable risk. Non-profit centers emerge when: (1) Demonstrated demand for the service is evident, but (2) The market will not support the true cost of the service provided. These non-profit centers are unable to access traditional forms of capital because they cannot demonstrate an ability to service debt at an acceptable risk.

The SBA 504 loan program would help mitigate the risk to lenders who will then be able to provide the necessary capital for the service that we know is in demand. The tax status of a child care center should be irrelevant, since the 501(C)3 status is only granted

when there is evidence of a public good being provided.

Sincerely,

ERIC KORSH,
Director of Loan Funds, Neighborhood Business Builders.

SOUTH EASTERN ECONOMIC DEVELOPMENT CORPORATION,
Taunton, MA, July 10, 2002.

Chairman JOHN KERRY,
Senate Committee on Small Business and Entrepreneurship, Russell Building, Washington, DC.

Re non profit child care center eligibility under the SBA 504 program.

DEAR SENATOR KERRY: As a member of the Advisory Committee on Child Care and Small Business as well as Vice President at South Eastern Economic Development (SEED) Corporation, I am writing in support of the idea of expanding the SBA 504 program to allow for non profit child care centers to be eligible for financing under the program. SEED Corporation is a Certified Development Company certified and accredited to administer the SBA 504 program throughout southeastern Massachusetts. Over the past 2 years, SEED has been the number one SBA 504 lender in the state. SEED is also an approved SBA Microenterprise Intermediary and we have enjoyed and made use of the ability to provide micro loans to non-profit child care businesses since the microenterprise intermediary legislation made the special provision for non profit child care providers to be eligible for SBA micro loan funds. My primary responsibilities at SEED include origination, underwriting and closing SBA 504 loans as well as the oversight and development of SEED's micro loan and business assistance activities.

Over the past five years, SEED has assisted over 10 FOR-PROFIT child care businesses to obtain SBA 504 financing for their start-up or expansion projects. However, we have also had to turn away an equal number of non-profit child care centers that were seeking similar assistance due to the fact that non profit entities are not eligible under the SBA 504 program.

As we have learned from discussions and analysis with the Advisory Committee on Child Care and Small Business, access to long term, fixed market or below-market rate financing is essential to any child care center. The slim margins that characterize this industry limit any child care center's ability to grow. The SBA 504 program offers the type of fixed rate financing that not only assists the business to keep its occupancy costs under control but also serves to stabilize its operations over the long term. The program also provides an incentive to a bank to provide fixed asset financing to a business that might not otherwise be able to afford a conventional commercial mortgage. The non-profit child care centers provide the same quality of care as the for-profit centers. Preventing non-profit child care centers from making use of the SBA 504 program when their for-profit competitors are able to results in discrimination against the children they serve; and, in general, the majority of child care centers operating in our state's neediest areas are non-profit.

For these reasons, I would like to support your efforts to expand the SBA 504 program enabling non-profit child care centers to be eligible for fixed asset financing under the 504 program. Thank you for your efforts.

Sincerely,

HEATHER DANTON,
Vice President.

THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES, OFFICE OF CHILD CARE SERVICES,
Boston, MA, July 11, 2002.

Chairman JOHN KERRY,
Senate Committee on Small Business and Entrepreneurship, Russell Building, Washington, DC.

DEAR CHAIRMAN KERRY: The Massachusetts Office of Child Care Services (OCCS) fully supports expansion of the SBA 504 loan program to include non-profit child care programs. OCCS is the state's licensing agency responsible for setting and enforcing strong health, safety and education standards for child care programs throughout the Commonwealth. OCCS is also the lead state agency responsible for the administration and purchase of all human services child care subsidies across the state. As a result, this agency is greatly invested in the availability of these child care programs and in increasing the capacity of child care services to benefit more families in the Commonwealth.

Currently there are approximately 17,000 licensed child care facilities in the Commonwealth which can provide services to over 200,000 children. Many of these facilities are non-profit programs that serve low-income families that are receiving child care subsidies to help them become or remain employed, and families that are or were receiving TANF. The availability and accessibility of child care is one of the main reasons that families can continue to successfully transition from welfare to work. There are currently approximately 18,000 children on the waiting list for a child care subsidy. The reauthorization of TANF may further increase the number of families seeking subsidized child care and Massachusetts must be ready to provide quality care. Accordingly, current and future non-profit programs will greatly benefit from the expansion of the SBA 504 loan program, as will the families that they serve.

OCCS is a member of the Advisory Committee on Child Care and Small Business and fully supports the Committee's mission of uniting the small business and child care communities to help providers maximize their income while providing quality child care. Expansion of the SBA 504 loan program will undoubtedly help expand the availability and accessibility of quality child care. Thank you for your support of this important legislation. If I can be of further assistance please do not hesitate to contact me.

Sincerely,

ARDITH WIEWORKA,
Commissioner.

WESTERN MASSACHUSETTS ENTERPRISE FUND, INC.,
Greenfield, MA, July 12, 2002.

Senator JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Office Building, Washington, DC.

DEAR SENATOR KERRY: I am writing in strong support of the legislation to expand the use of the SBA 504 program to include the financing of non-profit childcare centers.

As a member of Senator Kerry's Childcare Advisory Committee and the Executive Director of the Western Massachusetts Enterprise Fund (which makes loans to non-profits), I have seen a clear need for both more flexible and lower cost financing.

The SBA 504 program meets both those needs. By providing up to 40 percent financing, the SBA 504 program can help childcare centers more easily leverage bank financing. Additionally, the program offers highly competitive interest rates.

Finally, allowing the SBA to make loans to non-profit childcare centers is not new to the agency. The SBA is already making working capital loans to non-profit childcare centers through its Microenterprise Loan Fund Program.

If you have any questions, please to not hesitate to contact me.

Sincerely,

CHRISTOPHER SIKES,
Executive Director.

By Mr. SANTORUM (for himself, Mrs. LINCOLN, Mr. JEFFORDS, Mr. KYL, Mr. COLEMAN, and Mrs. CLINTON):

S. 823. A bill to amend title XVIII of the Social Security Act to provide for the expeditious coverage of new medical technology under the Medicare program, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am pleased to join today with my colleague, Senator BLANCHE LINCOLN, as well as Senators JEFFORDS, KYL, COLEMAN and CLINTON, in introducing the Medicare Innovation Responsiveness Act of 2003.

Given all that is going on in the world today, it is sometimes difficult to focus on issues related to Medicare coverage, coding and payment procedures. But we must, because every day there are seniors and people with disabilities in need of lifesaving and life-enhancing medical treatments and technologies.

And every day, there are creative people in Pennsylvania, Arkansas, and all across our great country developing new ways to prevent and treat illness and save lives. Medicare patients should not be denied access to these new procedures and technologies because the Medicare program is slow to respond to innovations in medical care and the changing needs of patients.

Congress passed legislation with strong bipartisan support in 1999 and in 2000 to try to address these problems. Unfortunately, however, Medicare has failed to deliver on key commitments in the legislation and these barriers persist.

That is why we are here today—to introduce legislation that will finally make timely access to lifesaving advanced medical tests and treatments for Medicare patients a reality. Our bill builds on constructive approaches the Centers for Medicare and Medicaid Services, CMS, has taken recently to help Medicare keep up with advancements in treating patients.

For example, CMS recently took proactive, unprecedented steps to address one of the newest innovations in minimally invasive cardiology that will soon be available for patients: drug-eluting stents. These tiny medal scaffolds, long-used to reopen blocked heart arteries, can be more effective now that researchers have combined them with time-released drugs to prevent the growth of unwanted cells. The Agency established new hospital inpatient codes and reimbursements for the new stints because it recognized that the technology will quickly become the standard of care when approved by

FDA in the coming weeks. The Agency understood the potential the stents hold to transform patient care and health care delivery—and acted in a timely fashion.

This forward-looking approach should be the rule, not the exception, in dealing with new treatment breakthroughs. And that is what our legislation today seeks to achieve.

At an event where Senator LINCOLN and I spoke to underscore the need for this legislation, we were pleased to be joined by medical professionals from our respective states, people who took time out of their busy schedules to come to Washington, DC and help us explain the importance of some of the provisions in the bill we are introducing today.

For example, three years after a mandate from Congress, Medicare has yet to provide special transitional payments for any new medical device used in the inpatient setting. As a result, Medicare will continue to take anywhere from 15 months to five years to integrate a new medical technology into the inpatient setting—and that is after it has already been approved as safe and effective by the FDA. Dr. Mark Wholey from Pittsburgh is involved in research on carotid stenting, and he commented today on the promise of this new treatment option and the importance of reducing barriers to Medicare patient access for new and innovative technologies.

In another area of coverage policy, Medicare discourages development of breakthrough devices like heart assist devices because it does not cover the routine costs of clinical trials for many innovative technologies. Dr. Walter Pae, Professor of Surgery at Penn State University, also came to Washington today to share some details of the pioneering work he is doing at Hershey Medical Center and to reinforce the importance of patient access to these promising clinical trials.

These reforms are reasonable and bipartisan. Most importantly, they are critical to patients in need of new and breakthrough technologies. I look forward to working with Senator LINCOLN and my colleagues on the Finance Committee in moving these important reforms in Committee and the Senate this year.

By Mr. HARKIN (for himself, Mr. DURBIN, Mr. FEINGOLD, Mr. KENNEDY, and Mrs. BOXER):

S. 825. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to protect pension benefits of employees in defined benefit plans and to direct the Secretary of the Treasury to enforce the age discrimination requirements of the Internal Revenue Code 1986; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, in the early 1990s, a large number of U.S. companies began a process of switching their defined benefit pension plans to cash balance plans. Many of the employees whose pension plans were to be altered drastically weren't told and didn't notice that they were essentially going to be working for years without earning any more benefits. Their not knowing was viewed as a key benefit by management. And the retirees were furious.

As Keith Williams with Watson Wyatt Worldwide and Amy Viener with William Mercer, two firms that put together these plans in 1998 said at an Actuaries conference:

> Mr. Williams: I've been involved in cash balance plans five or six years down the road and what I have found is that while employees understand it, it is not until they are actually ready to retire that they understand how little they are actually getting.
>
> Ms. Viener: Right, but they're happy while they're employed.

One of the most abusive practices in cash balance conversions is known as ''wear away.'' Older workers see nothing added to their pensions as the value of the pensions is frozen, often for many years, until it reaches the lower value of the new pension plan. At the same time younger workers are getting their pensions increased. In my view, this is clearly age discrimination and bad pension policy. In 1999, I introduced a bill to make it illegal for corporations wear away the benefits of older workers during conversions to cash balance plans. I offered my bill as an amendment. Forty-eight Senators, including 3 Republicans, voted to waive the budget point of order so we could consider this amendment. We did not have enough votes then, but I believe the tide is turning.

After that vote, more and more stories came out about how many workers were losing their pensions. In September of 1999, the Secretary of the Treasury put a moratorium on conversions from defined benefit plans to cash balance plans. That moratorium has been in effect now for over three years. In April of 2000, I offered a sense-of-the-Senate resolution to stop this practice, and it passed the Senate unanimously.

But last December, the Treasury decided to end that moratorium. The Department proposed a regulation that will allow hundreds of companies, many employing thousands of workers each to go forward with conversions that will allow for the wear-away of the current benefits of people across the country. This plan is breathtaking in its audacity. In a time when people have lost their life savings to market downturns and corporate duplicity, they are looking at changing the rules so that employers can once again bolster their bottom line by shifting funds from the pensions they promised their workers. I will not stand by and let it happen.

There are over 800 age discrimination complaints currently pending before the EEOC based on cash balance conversions. How many more will there be if we again start allowing companies to make these abusive conversions?

I want to make it very clear: I am not opposed to all cash balance plans. Some cash balance plans can be very good. What I oppose is the unilateral decision of a company being able to change their plans and stop contributing to older employees' pensions while benefits are given to newer employees.

That is what this issue is all about. It is fairness. It is equity. I know discussion of pension law can become very convoluted. But in essence, what some of these companies have been doing to these workers is nothing less than sheer thievery. They are able to save millions, in some cases hundreds of millions of dollars, by converting their plans, robbing workers who have been loyal and hard working, robbing them of their rightful claims on future benefits, It is not right. It is not fair.

There is one thing that has distinguished the American workplace from others around the world. We have valued loyalty. At least we used to. That is one of the reasons pension plans exist—the longer you work somewhere, the more you earn in your pension program. Obviously, the longer you work someplace, the better you do your job, the more you learn about it, the more productive you are. We should value that loyalty.

If companies are able to wear away the benefits of the longest serving workers, what kind of a signal does that send to the workers? It tells workers they are fools if they are loyal because if you put in 20 to 25 years, the boss can just change the rules of the game, and break their promise. It tells younger workers that it would be crazy to work for a company for a long time, that it's best to hedge your bets and move on as soon as it is convenient.

This destroys the kind of work ethic we have come to value and that we know built this country. But some of these cash balance conversions counter all of that. Her is an analogy. Imagine I hire someone for five years with a promise of a $50,000 bonus at the end of five years of service. At the end of three years, however, I renege on the $50,000 bonus. But the employee has three years invested. Had they known that the deal was going to be off, perhaps they would not have gone to work for me. They could have gone to work someplace else for a total higher compensation package. Is that the way we want to treat workers in this country, where the employer has all the cards and employees have none, and employers can make whatever deal they want, but can change the rules at any time?

That is why I am introducing this legislation. It is simple. It says that you have to give older, longer serving employees a choice, at retirement, when their pension plan is converted to a cash balance plan to get the benefits earned in the old plan instead. It also says that employers must start counting the new cash balance benefits where the old defined benefit plan left off, instead of starting the cash balance

plan at a lower level than an employee had already earned.

In the March 3, 2002 issue of Fortune magazine, Janice Revell said of the possible impending flood of cash balances conversions: ''Brace yourself for a very un-fairy-tale ending to this tory. Millions of American workers are sure to see a large slice of their retirement income go up in smoke. It may not happen right away, but the groundwork is being laid right now.''

I urge my colleagues in the Senate to join me in cosponsoring this measure, so that we can stop the flood before it starts.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 107—EXPRESSING THE SENSE OF THE SENATE TO DESIGNATE THE MONTH OF NOVEMBER 2003 AS ''NATIONAL MILITARY FAMILY MONTH''

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

S. RES. 107

Whereas military families, through their sacrifices and their dedication to our Nation and its values, represent the bedrock upon which our Nation was founded and upon which our Nation continues to rely in these perilous and challenging times: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the month of November 2003 should be designated as ''National Military Family Month''; and

(2) to request that the President—

(A) designate the month of November 2003 as ''National Military Family Month''; and

(B) issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Mr. INOUYE. Mr. President, today I rise to honor all our military families by introducing a Resolution to designate November 2003, as National Military Family Month. As we all know, memories fade and the hardships experienced by our military families are easily forgotten unless they touch our own immediate family.

Today, we have our men and women deployed all over the world, engaged in this war on terrorism. These far-ranging military deployments are extremely difficult on the families who bear this heavy burden.

To honor these families, the Armed Services YMCA has sponsored Military Family Week in late November since 1996. However, due to frequent ''short week'' conflicts around the Thanksgiving holidays, the designated week has not always afforded enough time to schedule observance on and near our military bases.

I believe a month long observation will allow greater opportunity to plan events. Moreover, it will provide a greater opportunity to stimulate media support.

A Concurrent Resolution will help pave the way for this effort. I ask my colleagues to join me in supporting this tribute to our military families.

I request unanimous consent that the full text of my resolution be printed in the CONGRESSIONAL RECORD.

SENATE RESOLUTION 108—DESIGNATING THE WEEK OF APRIL 21 THROUGH APRIL 27 2003, AS ''NATIONAL COWBOY POETRY WEEK''

Mr. BURNS (for himself, Mr. BAUCUS, Mr. BROWNBACK, Mr. HATCH, and Mr. REID) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 108

Whereas throughout American history, cowboy poets have played a large part in framing the landscape of the American West through written and oral poetry;

Whereas the endurance of these tales and poems demonstrates that cowboy poetry is still a living art;

Whereas recognizing the contributions of these poets dates as far back as cowboys themselves; and

Whereas it is necessary to recognize the importance of cowboy poetry for future generations: Now therefore be it

Resolved, That the Senate—

(1) designates that week of April 21 through April 27, 2003, as ''National Cowboy Poetry Week''; and

(2) requests the President to issue a proclamation calling upon the people of the United States to celebrate the week with the appropriate ceremonies, activities, and programs.

Mr. BURNS. Mr. President, I would like to submit a resolution for consideration by the Senate marking the last week in April as ''Cowboy Poetry Week.'' Many think cowboys are a thing of the past, but I can tell you otherwise. In many western States like Montana, cowboys gather around a campfire and swap stories just as frequently as they did one hundred years ago. This oral tradition is now captured in written form as well, and several websites are dedicated solely to preserving and disseminating cowboy poetry and its history. My resolution will recognize the contribution of cowboy poetry to our history of the West, but also to mark it as a thriving tradition that continues even today. I thank my colleagues Senators BAUCUS, BROWNBACK, HATCH, and REID for their support on this issue. The life of cowboys should not be relegated to small weekly radio shows or features done on public television; it is important to understand that cowboys live and breathe a unique culture which few may be exposed to. I would encourage all my colleagues to take a walk in their boots one day, and read a little cowboy poetry.

SENATE RESOLUTION 109—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO POLIO

Mr. FEINGOLD (for himself and Mr. DODD) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 109

Whereas polio has caused millions of casualties through history, paralyzing millions and killing untold numbers of others;

Whereas polio remains a public health threat in today's world, despite being easily preventable by vaccination;

Whereas polio is now limited to 10 countries, with the distinct possibility that it can be once and forever extinguished as an affliction on mankind by ensuring the vaccination of all children in these countries under the age of 5;

Whereas a Global Polio Eradication Initiative exists that seeks to once and forever end polio as an illness, which includes efforts underway by the Centers for Disease Control and Prevention; and

Whereas the United States has the capacity to act to speed the eradication of polio by assisting in the targeting of its few remaining reservoirs: Now, therefore, be it

Resolved, That the Senate—

(1) expresses serious concern about the continuing menace posed by polio;

(2) implores the United Nations and its component agencies, the private sector, private voluntary organizations and non-governmental organizations, concerned States, and international financial institutions to act with haste and manifold dedication to eradicate polio as soon as possible; and

(3) calls upon the executive branch to provide the necessary human and material resources to end the scourge of polio once and for all, including closely monitoring laboratory stocks of the polio virus.

Mr. FEINGOLD. Mr. President, I rise to submit a resolution supporting global efforts to eradicate the scourge of polio from the face of the earth.

It was not so long ago that American parents were afraid to send their children to public swimming pools in the summer for fear that they would contact this deadly disease. More than 57,000 cases were reported in the United States in 1952. President Franklin Roosevelt, himself disabled by polio, established the March of Dimes in 1938 to find a cure for the disease. Sixteen years later, mass vaccination began, using a serum developed by Dr. Jonas Salk. Infections declined nearly 90 percent within three years. Routine administration of the Salk vaccine, and the subsequent oral vaccine developed by Dr. Albert Sabin, soon relegated polio to the history books in the United States and many other countries. The disease continued to take its toll, however, in those parts of the world where universal vaccination was beyond people's means.

In 1988, the World Health Assembly set a goal of eradicating polio worldwide by the year 2000. In that year there were an estimated 350,000 polio cases in 125 countries. The World Health Organization, the U.S. Centers for Disease Control and Prevention, UNICEF, and Rotary International spearheaded a global campaign to eradicate polio, as smallpox had been eradicated in 1979. As a result of this campaign, the Western Hemisphere was certified polio free in 1994. The Western Pacific—including the world's largest country, China—followed suit in 2000.

But polio hung on in 10 countries in Africa, South Asia, and the Middle East, with 480 cases reported in 2001. Since then, Europe has been certified polio-free. But the disease has bounced back in India and Nigeria, and there were 1,462 cases reported in seven countries in 2002. The eradication target has been extended to 2005.

This resolution seeks to bolster the efforts of the WHO, UNICEF, CDC and Rotary International to eliminate this dreaded disease once and for all. It has been estimated that doing so would produce direct, global financial benefits of $1.7 billion a year mostly by eliminating the need for further vaccinations and their associated risks and would free millions from fear.

I especially want to commend the efforts of Rotary members worldwide, who have set a goal of raising $80 million this year for polio eradication. Rotary has committed more than $500 million to the campaign since 1988. This represents the finest spirit of community action to address global problems, harkening back to when American families collected dimes to wipe out polio in this country. I urge all my colleagues to emulate the spirit of the Rotarians by supporting this resolution.

SENATE RESOLUTION 110—HONORING MARY JANE JENKINS OGILVIE, WIFE OF FORMER SENATE CHAPLAIN, REVEREND DR. LLOYD JOHN OGILVIE

Mr. KYL (for himself, Mr. FRIST, Mr. DASCHLE, Mr. STEVENS, Mr. MCCONNELL, Mr. REID, Mr. BYRD, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 110

Whereas Mary Jane Jenkins Ogilvie, a friend to the United States Senate who succumbed April 1, 2003, to infirmities that she had battled courageously over many years was—

(1) petite in size, but grand in character, a woman with strong independent status, while still being steadfastly supportive of her husband during his chaplaincy;

(2) an active, vibrant, frank, honest, vigorous, and warm friend, especially to many Senate spouses, during her eight years here;

(3) a loving wife and mother who, though she missed her family in California, was a vital partner in her husband's service to the Senate, near the end of which she returned home to California;

(4) a devout woman, a fighter to the end, an individual impressive for her style, her spirit, and her strong faith; and

(5) the center of her family, cherished by her husband Lloyd, her children Heather, Scott, and Andrew, and her grandchildren Erin, Airley, Bonnie, and Scotter: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Mary Jane Jenkins Ogilvie;

(2) recognizes her contributions to the Senate family;

(3) admires her courage and loyalty; and

(4) expresses gratitude that she is now with the Lord.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of Mary Jane Jenkins Ogilvie.

SENATE CONCURRENT RESOLUTION 34—CALLING FOR THE PROSECUTION OF IRAQIS AND THEIR SUPPORTERS FOR WAR CRIMES, AND FOR OTHER PURPOSES

Mr. SPECTER (for himself and Mr. BIDEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 34

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the governments of the United States, the United Kingdom, and other nations comprising the coalition conducting Operation Iraqi Freedom should ensure the prosecution by tribunal of persons in the Government of Iraq, persons in the armed forces of Iraq, and any other persons, regardless of nationality, who order, direct, solicit, procure, coordinate, participate in, or support acts in violation of the international law of armed conflict (including the aspects of such law set forth in the Hague and Geneva Conventions) that are directed at members of the armed forces of the coalition nations or at the people of Iraq or any other nation;

(2) in the determination of appropriate persons to be charged and tried by such tribunal on the basis of command responsibility for any violation, consideration should be given to identifying responsible persons throughout the full range of the chain of command, and not only persons within formal chains of command of the government and armed forces of Iraq, but also persons integral to any informal link by which a person in the government of Iraq or the armed forces of Iraq, or any other person, directs paramilitary, political, or guerrilla forces;

(3) in the determination of appropriate persons to be charged and tried by such tribunal, consideration should also be given to identifying persons who use political position or mass media in any of the violations; and

(4) in the determination of the violations of the international law of armed conflict to be tried by the tribunal, particular attention should be given to acts in the nature of those that, as of the date of this resolution, have already been committed by Iraqi directed forces, such as—

(A) the abuse of places protected from military attack under international law of armed conflict, such as the use of mosques and hospitals as military headquarters or for other military purposes;

(B) the ruse by which Iraqi combatants wear civilian clothing instead of, or over, uniforms to conceal their status as combatants and, while so clothed, attack coalition forces, including by means of suicide bombing by which a combatant appearing to be a civilian operator of a car detonates explosives concealed in the car;

(C) the ruse by which Iraqi combatants feign surrender to coalition forces to gain advantage used by the Iraqi combatants to attack personnel of the coalition forces;

(D) the use of civilians or other persons protected under international law of armed conflict as human shields for Iraqi combatants on the battlefield;

(E) assault, murder, kidnapping, or torture of civilians or other persons protected under international law in order to terrorize those persons or others or to prevent them from gaining the protection of coalition forces;

(F) abuse, torture, assault, or murder of personnel of coalition forces entitled to treatment as prisoners of war or of civilians entitled to a protected status under international law; and

(G) recruitment or encouragement of non-Iraqi foreign nationals to engage in violations of the international law of armed conflict.

AMENDMENTS SUBMITTED AND PROPOSED

SA 526. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 476, to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

TEXT OF AMENDMENTS

SA 526. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 476, to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes; as follows:

On page 24, strike lines 18 through 20, and insert the following:

''(i) IN GENERAL.—In the case of any such contributions by a taxpayer who is an eligible farmer or rancher for the taxable year in which such contributions are made—

On page 45, between lines 11 and 12, insert the following:

SEC. 113. 10-YEAR DIVESTITURE PERIOD FOR CERTAIN EXCESS BUSINESS HOLDINGS OF PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Section 4943(c) (relating to excess business holdings) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) 10-YEAR PERIOD TO DISPOSE OF CERTAIN LARGE GIFTS AND BEQUESTS.—

''(A) IN GENERAL.—Paragraph (6) shall be applied by substituting '10-year period' for '5-year period' if—

''(i) upon the election of a private foundation, it is established to the satisfaction of the Secretary that—

''(I) the excess business holdings (or increase in excess business holdings) in a business enterprise by the private foundation in an amount which is not less than $1,000,000,000 is the result of a gift or bequest the fair market value of which is not less than $1,000,000,000, and

''(II) after such gift or bequest, the private foundation does not have effective control of such business enterprise to which such gift or bequest relates,

''(ii) subject to subparagraph (C), the private foundation submits to the Secretary with such election a reasonable plan for disposing of all of the excess business holdings related to such gift or bequest, and

''(iii) the private foundation certifies annually to the Secretary that the private foundation is complying with the plan submitted under this paragraph, the requirement under clause (i)(II), and the rules under subparagraph (D).

''(B) ELECTION.—Any election under subparagraph (A)(i) shall be made not later than 6 months after the date of such gift or bequest and shall—

''(i) establish the fair market value of such gift or bequest, and

''(ii) include a certification that the requirement of subparagraph (A)(i)(II) is met.

''(C) REASONABLENESS OF PLAN.—

''(i) IN GENERAL.—Any plan submitted under subparagraph (A)(ii) shall be presumed reasonable unless the Secretary notifies the private foundation to the contrary not later than 6 months after the submission of such plan.

''(ii) RESUBMISSION.—Upon notice by the Secretary under clause (i), the private foundation may resubmit a plan and shall have the burden of establishing the reasonableness of such plan to the Secretary.

''(D) SPECIAL RULES.—During any period in which an election under this paragraph is in effect—

''(i) section 4941(d)(2) (other than subparagraph (A) thereof) shall apply only with respect to any disqualified person described in section 4941(a)(1)(B),

''(ii) section 4942(a) shall be applied by substituting 'third' for 'second' both places it appears,

''(iii) section 4942(e)(1) shall be applied by substituting '12 percent' for '5 percent', and

''(iv) section 4942(g)(1)(A) shall be applied without regard to any portion of reasonable and necessary administrative expenses.

''(E) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2003, the $1,000,000,000 amount under subparagraph (A)(i)(I) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting '2002' for '1992' in subparagraph (B) thereof. If the $1,000,000,000 amount as increased under this subparagraph is not a multiple of $100,000,000, such amount shall be rounded to the next lowest multiple of $100,000,000.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts and bequests made after the date of the enactment of this Act.

On page 86, between lines 11 and 12, insert the following:

SEC. 313. EXEMPTION OF QUALIFIED 501(c)(3) BONDS FOR NURSING HOMES FROM FEDERAL GUARANTEE PROHIBITIONS.

(a) IN GENERAL.—Section 149(b)(3) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(E) EXCEPTION FOR QUALIFIED 501(C)(3) BONDS FOR NURSING HOMES.—

''(i) IN GENERAL.—Paragraph (1) shall not apply to any qualified 501(c)(3) bond issued before the date which is 1 year after the date of the enactment of this subparagraph for the benefit of an organization described in section 501(c)(3), if such bond is part of an issue the proceeds of which are used to finance 1 or more of the following facilities primarily for the benefit of the elderly:

''(I) Licensed nursing home facility.

''(II) Licensed or certified assisted living facility.

''(III) Licensed personal care facility.

''(IV) Continuing care retirement community.

''(ii) LIMITATION.—With respect to any calendar year, clause (i) shall not apply to any bond described in such clause if the aggregate authorized face amount of the issue of which such bond is a part when increased by the outstanding amount of such bonds issued by the issuer for such calendar year exceeds $15,000,000.

''(iii) CONTINUING CARE RETIREMENT COMMUNITY.—For purposes of this subparagraph, the term 'continuing care retirement community' means a community which provides, on the same campus, a continuum of residential living options and support services to persons at least 60 years of age under a written agreement. For purposes of the preceding sentence, the residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 314. EXCISE TAXES EXEMPTION FOR BLOOD COLLECTOR ORGANIZATIONS.

(a) EXEMPTION FROM IMPOSITION OF SPECIAL FUELS TAX.—Section 4041(g) (relating to other exemptions) is amended by striking ''and'' at the end of paragraph (3), by striking the period in paragraph (4) and inserting ''; and'', and by inserting after paragraph (4) the following new paragraph:

''(5) with respect to the sale of any liquid to a qualified blood collector organization (as defined in section 7701(a)(48)) for such organization's exclusive use, or with respect to the use by a qualified blood collector organization of any liquid as a fuel.''.

(b) EXEMPTION FROM MANUFACTURERS EXCISE TAX.—

(1) IN GENERAL.—Section 4221(a) (relating to certain tax-free sales) is amended by striking ''or'' at the end of paragraph (4), by adding ''or'' at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

''(6) to a qualified blood collector organization (as defined in section 7701(a)(48)) for such organization's exclusive use,''.

(2) CONFORMING AMENDMENTS.—

(A) The second sentence of section 4221(a) is amended by striking ''Paragraphs (4) and (5)'' and inserting ''Paragraphs (4), (5), and (6)''.

(B) Section 6421(c) is amended by striking ''or (5)'' and inserting ''(5), or (6)''.

(c) EXEMPTION FROM COMMUNICATION EXCISE TAX.—

(1) IN GENERAL.—Section 4253 (relating to exemptions) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

''(k) EXEMPTION FOR QUALIFIED BLOOD COLLECTOR ORGANIZATIONS.—Under regulations provided by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a qualified blood collector organization (as defined in section 7701(a)) for services or facilities furnished to such organization.''.

(2) CONFORMING AMENDMENT.—Section 4253(l), as redesignated by paragraph (1), is amended by striking ''or (j)'' and inserting ''(j), or (k)''.

(d) CREDIT FOR REFUND FOR CERTAIN TAXES ON SALES AND SERVICES.—

(1) DEEMED OVERPAYMENT.—

(A) IN GENERAL.—Section 6416(b)(2) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) sold to a qualified blood collector organization's (as defined in section 7701(a)(48)) for such organization's exclusive use;''.

(B) CONFORMING AMENDMENTS.—Section 6416(b)(2) is amended—

(i) by striking ''Subparagraphs (C) and (D)'' and inserting ''Subparagraphs (C), (D), and (E)'', and

(ii) by striking ''(C), and (D)'' and inserting ''(C), (D), and (E)''.

(2) SALES OF TIRES.—Clause (ii) of section 6416(b)(4)(B) is amended by inserting ''sold to a qualified blood collector organization (as defined in section 7701(a)(48)),'' after ''for its exclusive use,''.

(e) DEFINITION OF QUALIFIED BLOOD COLLECTOR ORGANIZATION.—Section 7701(a) is amended by inserting at the end the following new paragraph:

''(48) QUALIFIED BLOOD COLLECTOR ORGANIZATION.—For purposes of this title, the term 'qualified blood collector organization' means an organization which is—

''(A) described in section 501(c)(3) and exempt from tax under section 501(a),

''(B) registered by the Food and Drug Administration to collect blood, and

''(C) primarily engaged in the activity of the collection of blood.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to excise taxes imposed on sales or uses occurring on or after October 1, 2003.

(2) REFUND OF GASOLINE TAX.—For purposes of section 6421(c) of the Internal Revenue Code of 1986 and any other provision that allows for a refund or a payment in respect of an excise tax payable at a level before the sale to a qualified blood collector organization, the amendments made by this section shall apply with respect to sales to a qualified collector organization on or after October 1, 2003.

SEC. 315. PILOT PROJECT FOR FOREST CONSERVATION ACTIVITIES.

(a) TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) QUALIFIED FOREST CONSERVATION BOND.—For purposes of this section, the term ''qualified forest conservation bond'' means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is issued for a qualified organization, and

(C) such bond is issued before December 31, 2006.

(3) LIMITATION ON AGGREGATE AMOUNT ISSUED.—

(A) IN GENERAL.—The maximum aggregate face amount of bonds which may be issued under this subsection shall not exceed $2,000,000,000 for all projects (excluding refunding bonds).

(B) ALLOCATION OF LIMITATION.—The limitation described in subparagraph (A) shall be allocated by the Secretary of the Treasury among qualified organizations based on criteria established by the Secretary not later than 180 days after the date of the enactment of this section, after consultation with the Chief of the Forest Service.

(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection, the term ''qualified project costs'' means the sum of—

(A) the cost of acquisition by the qualified organization from an unrelated person of forests and forest land which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) SPECIAL RULES.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued to refund a qualified forest conservation bond issued before December 31, 2006, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) EFFECTIVE DATE.—This subsection shall apply to obligations issued on or after the date which is 180 days after the enactment of this Act.

(b) ITEMS FROM QUALIFIED HARVESTING ACTIVITIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by a qualified organization shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) LIMITATION.—The amount of income excluded from gross income under paragraph (1) for any taxable year shall not exceed the amount used by the qualified organization to make debt service payments during such taxable year for qualified forest conservation bonds.

(3) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term ''qualified harvesting activity'' means the sale, lease, or harvesting, of standing timber—

(i) on land owned by a qualified organization which was acquired with proceeds of qualified forest conservation bonds,

(ii) with respect to which a written acknowledgement has been obtained by the qualified organization from the State or local governments with jurisdiction over such land that the acquisition lessens the burdens of such government with respect to such land, and

(iii) pursuant to a qualified conservation plan adopted by the qualified organization.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting for any period during which the organization ceases to qualify as a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land or,

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to post-fire restoration and rehabilitation or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attack.

(4) TERMINATION.—This subsection shall not apply to any qualified harvesting activity of a qualified organization occurring after the date on which there is no outstanding qualified forest conservation bond with respect to such qualified organization or any such bond ceases to be a tax-exempt bond.

(5) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (3)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary of the Treasury, by the sum of the tax benefits attributable to such excess and interest at the underpayment rate under section 6621 of such Code for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term ''qualified conservation plan'' means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land, and

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the region's ecotype,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat, or

(v) enhancing research opportunities in sustainable renewable resource uses.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the qualified organization to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term ''qualified organization'' means an organization—

(A) which is a nonprofit organization substantially all the activities of which are charitable, scientific, or educational, including acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific and public benefit,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has at all times a board of directors—

(i) at least 20 percent of the members of which represent the holders of the conservation restriction described in paragraph (2),

(ii) at least 20 percent of the members of which are public officials, and

(iii) not more than one-third of the members of which are individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the qualified organization has a contractual or other financial arrangement,

(E) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation plan and any change thereto, and

(F) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) UNRELATED PERSON.—The term ''unrelated person'' means a person who is not a related person.

(5) RELATED PERSON.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting ''25 percent'' for ''50 percent'' each place it appears therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

SEC. 316. CLARIFICATION OF TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.

(a) CLARIFICATION OF TAX-EXEMPT STATUS OF TRUSTS.—

(1) IN GENERAL.—Subsection (b) of section 601 of the Homeland Security Act of 2002 is amended to read as follows:

''(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and meets the requirements described in subsection (c) shall be eligible to designate itself as a 'Johnny Micheal Spann Patriot trust'.''.

(2) CONFORMING AMENDMENT.—Section 601(c)(3) of such Act is amended by striking ''based'' and all that follows through ''Trust''.

(b) PUBLICLY AVAILABLE AUDITS.—Section 601(c)(7) of the Homeland Security Act of 2002 is amended by striking ''shall be filed with the Internal Revenue Service, and shall be open to public inspection'' and inserting ''shall be open to public inspection consistent with section 6104(d)(1) of the Internal Revenue Code of 1986''.

(c) CLARIFICATION OF REQUIRED DISTRIBUTIONS TO PRIVATE FOUNDATION.—

(1) IN GENERAL.—Section 601(c)(8) of the Homeland Security Act of 2002 is amended by striking ''not placed'' and all that follows and inserting ''not so distributed shall be contributed to a private foundation which is described in section 509(a) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and which is dedicated to such beneficiaries not later than 36 months after the end of the fiscal year in which such funds, donations, or earnings are received.''.

(2) CONFORMING AMENDMENTS.—Section 601(c) of such Act is amended—

(A) by striking ''(or, if placed in a private foundation, held in trust for)'' in paragraph (1) and inserting ''(or contributed to a private foundation described in paragraph (8) for the benefit of)'', and

(B) by striking ''invested in a private foundation'' in paragraph (2) and inserting ''contributed to a private foundation described in paragraph (8)''.

(d) REQUIREMENTS FOR DISTRIBUTIONS FROM TRUSTS.—Section 601(c)(9)(A) of the Homeland Security Act of 2002 is amended by striking ''should'' and inserting ''shall''.

(e) REGULATIONS REGARDING NOTIFICATION OF TRUST BENEFICIARIES.—Section 601(f) of the Homeland Security Act of 2002 is amended by striking ''this section'' and inserting ''subsection (e)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 601 of the Homeland Security Act of 2002.

On page 100, line 20, strike ''**7525**'' and insert ''**7528**''.

On page 101, after line 8, strike ''7525'' and insert ''7528''.

On page 123, before line 22, insert the following:

(e) REPORT REGARDING ACCOUNT MAINTENANCE FEES.—The Secretary of the Treasury shall study the adequacy of the amount specified in section 45G(c)(2) of the Internal Revenue Code of 1986 (as added by this section). Not later than December 31, 2009, the Secretary of the Treasury shall report the findings of the study described in the preceding sentence to Congress.

On page 123, line 22, strike ''(e)'' and insert ''(f)''.

On page 125, strike lines 10 through 12, and insert the following:

(a) IN GENERAL.—Section 7701, as amended by this Act, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

On page 125, line 13, strike ''(m)'' and insert ''(o)''.

On page 148, line 21, strike ''section 7701(m)(1)'' and insert ''section 7701(o)(1)''.

On page 148, line 24, strike ''section 7701(m)(2)'' and insert ''section 7701(o)(2)''.

On page 175, after line 20, add the following:

SEC. 723. SECURITIES CIVIL ENFORCEMENT PROVISIONS.

(a) AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.—

(1) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

''(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

''(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether the penalty is in the public interest. Such evidence may relate to the extent of the person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of that person and the amount of the assets of that person.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(A) in paragraph (4), by striking ''supervision;'' and all that follows through the end of the subsection and inserting ''supervision.'';

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(3) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(A) in subparagraph (C), by striking ''therein;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(4) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(A) in subparagraph (D), by striking ''supervision;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(b) INCREASED MAXIMUM CIVIL MONEY PENALTIES.—

(1) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by striking ''$5,000'' and inserting ''$100,000''; and

(ii) by striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B)(i)—

(i) by striking ''$50,000'' and inserting ''$500,000''; and

(ii) by striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C)(i)—

(i) by striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) by striking ''$500,000'' and inserting ''$2,000,000''.

(2) SECURITIES EXCHANGE ACT OF 1934.—

(A) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(i) in subsection (b), by striking ''$100'' and inserting ''$10,000''; and

(ii) in subsection (c)—

(I) in paragraph (1)(B), by striking ''$10,000'' and inserting ''$500,000''; and

(II) in paragraph (2)(B), by striking ''$10,000'' and inserting ''$500,000''.

(B) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking ''$1,000,000'' and inserting ''$2,000,000''.

(C) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(i) in paragraph (1)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in paragraph (2)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in paragraph (3)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(D) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(i) in clause (i)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in clause (ii)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in clause (iii)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(3) INVESTMENT COMPANY ACT OF 1940.—

(A) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(B) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(4) INVESTMENT ADVISERS ACT OF 1940.—

(A) REGISTRATION.—Section 203(i)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(B) ENFORCEMENT OF INVESTMENT ADVISERS ACT.—Section 209(e)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(c) AUTHORITY TO OBTAIN FINANCIAL RECORDS.—Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking ''(9)(A)'' and all that follows through ''(B) The'' and inserting ''(3) The'';

(3) by inserting after paragraph (1), the following:

''(2) ACCESS TO FINANCIAL RECORDS.—

''(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

''(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

''(i) result in the transfer of assets or records outside the territorial limits of the United States;

''(ii) result in improper conversion of investor assets;

''(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

''(iv) endanger the life or physical safety of an individual;

''(v) result in flight from prosecution;

''(vi) result in destruction of or tampering with evidence;

''(vii) result in intimidation of potential witnesses; or

''(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.

''(C) TRANSFER OF RECORDS TO GOVERNMENT AUTHORITIES.—The Commission may transfer financial records or the information contained therein to any government authority, if the Commission proceeds as a transferring agency in accordance with section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), except that a customer notice shall not be required under subsection (b) or (c) of that section 1112, if the Commission determines that there is reason to believe that such notification may result in or lead to any of the factors identified under clauses (i) through (viii) of subparagraph (B) of this paragraph.'';

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SEC. 724. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

''(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

''(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

''(i) at least 25 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2004; and

''(ii) at least 50 percent of all such determinations that are made in fiscal year 2005 or thereafter.

''(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.''.

TITLE VIII—COMPASSION CAPITAL FUND

SEC. 801. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Secretary of Health and Human Services (referred to in this section as ''the Secretary'') may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of nonprofit community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) SUPPORT FOR STATES.—The Secretary—

(1) may award grants to and enter into cooperative agreements with States and political subdivisions of States to provide seed money to establish State and local offices of faith-based and community initiatives; and

(2) shall provide technical assistance to States and political subdivisions of States in administering the provisions of this Act.

(c) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $85,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(f) DEFINITION.—In this section, the term ''community-based organization'' means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 802. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Corporation for National and Community Service (referred to in this section as ''the Corporation'') may award grants to and enter into cooperative agreements with nongovernmental organizations and State Commissions on National and Community Service established under section 178 of the National and Community Service Act of 1990 (42 U.S.C. 12638), to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State Commission, State, or political subdivision shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term ''community-based organization'' means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 803. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF JUSTICE.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Attorney General may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Attorney General) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term ''community-based organization'' means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 804. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Secretary of Housing and Urban Development (referred to in this section ''the Secretary'') may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement

from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term ''community-based organization'' means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 805. COORDINATION.

The Secretary of Health and Human Services, the Corporation for National and Community Service, the Attorney General, and the Secretary of Housing and Urban Development shall coordinate their activities under this title to ensure—

(1) nonduplication of activities under this title; and

(2) an equitable distribution of resources under this title.

TITLE IX—MATERNITY GROUP HOMES

SEC. 901. MATERNITY GROUP HOMES.

(a) PERMISSIBLE USE OF FUNDS.—Section 322 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–2) is amended—

(1) in subsection (a)(1), by inserting ''(including maternity group homes)'' after ''group homes''; and

(2) by adding at the end the following:

''(c) MATERNITY GROUP HOME.—In this part, the term 'maternity group home' means a community-based, adult-supervised group home that provides young mothers and their children with a supportive and supervised living arrangement in which such mothers are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.''.

(b) CONTRACT FOR EVALUATION.—Part B of the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended by adding at the end the following:

''SEC. 323. CONTRACT FOR EVALUATION.

''(a) IN GENERAL.—The Secretary shall enter into a contract with a public or private entity for an evaluation of the maternity group homes that are supported by grant funds under this Act.

''(b) INFORMATION.—The evaluation described in subsection (a) shall include the collection of information about the relevant characteristics of individuals who benefit from maternity group homes such as those that are supported by grant funds under this Act and what services provided by those maternity group homes are most beneficial to such individuals.

''(c) REPORT.—Not later than 2 years after the date on which the Secretary enters into a contract for an evaluation under subsection (a), and biennially thereafter, the entity conducting the evaluation under this section shall submit to Congress a report on the status, activities, and accomplishments of maternity group homes that are supported by grant funds under this Act.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 388 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) in subsection (a)(1)—

(A) by striking ''There'' and inserting the following:

''(A) IN GENERAL.—There'';

(B) in subparagraph (A), as redesignated, by inserting ''and the purpose described in subparagraph (B)'' after ''other than part E''; and

(C) by adding at the end the following:

''(B) MATERNITY GROUP HOMES.—There is authorized to be appropriated, for maternity group homes eligible for assistance under section 322(a)(1)—

''(i) $33,000,000 for fiscal year 2003; and

''(ii) such sums as may be necessary for fiscal year 2004.''; and

(2) in subsection (a)(2)(A), by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, April 10, 2003, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting to mark up pending committee legislation.

Those wishing additional information may contact the Indian Affairs Committee at 202–224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, April 8, 2003, at 10:15 a.m., in open and possibly closed session, to receive testimony on Homeland Defense in review of the defense authorization request for fiscal year 2004 and the future years defense program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 8, 2003, at 10:00 a.m., to conduct a hearing on ''the impact of the proposed 'RESPA' rule on small businesses and consumers.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, April 8; Wednesday, April 9; and Thursday, April 10 at 10:00 a.m., to consider comprehensive Energy Legislation.

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

COMMITTEE ON FINANCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, April 8, 2003, at 10:00 a.m., to hear testimony on Enron: Joint Committee on Taxation Investigative Report—Compensation—Related Issues.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 8, 2003, at 9:30 a.m., to hold a hearing on NATO enlargement.

Witnesses

Panel 1: ''New Members, New Missions.'' The Honorable Marc I. Grossman, Undersecretary of State for Political Affairs, Department of State, Washington, DC.

Panel 2: ''The Future of NATO.'' General Wesley K. Clark, USA (ret.), Former SACEUR, Chairman and CEO, Wesley Clark & Associates, Little Rock, Arkansas.

Mr. William Kristol, Editor, The Weekly Standard, Washington, DC.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 8, 2003, at 2:30 p.m., to hold a hearing on an overview of global energy security issues.

Witnesses

Panel 1: Mr. Kyle E. McSlarrow, Deputy Secretary of Energy, Department of Energy, Washington, DC; and

The Honorable Alan P. Larson, Under Secretary for Economic, Business and Agricultural Affairs, Department of State, Washington, DC.

Panel 2: Mr. Vahan Zanoyan, President & CEO, PFC Energy, Washington, DC

Dr. Daniel Yergin, Chairman, Cambridge Energy Research Associates, Cambridge, MA; and

Dr. Martha Brill Olcott, Senior Associate, Carnegie Endowment for International Peace, Washington, DC.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on MQSA: Patient Access to Quality Health Care during the session of the Senate on Tuesday, April 8, 2003, at 10:00 a.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''A Proposed Constitutional Amendment to Protect Crime Victims, S.J. Res. 1'' on Tuesday, April 8, 2003, at 10:00 a.m. in the Dirksen Senate Office Building Room 226.

Panel I: The Honorable Viet Dinh, Assistant Attorney General, Office of Legal Policy, Department of Justice, Washington, DC.

Panel II: Collene Campbell, San Juan Capistrano, CA; Earlene Eason, Gary, IN; Jamie Orenstein, New York, NY; Patricia Perry, New York, NY; Duane Lynn, Peoria, AZ; Steve Twist, Phoenix, AZ.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, April 8, 2003, at 9:30 a.m., to conduct an oversight hearing on the operations of the Sergeant at Arms, Library of Congress and Congressional Research Service.

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

SUBCOMMITTEE ON CLEAR AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. CORNYN. Mr. President, I ask unanimous consent that the subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Tuesday, April 8 at 2:00 p.m. to conduct a legislative hearing on the Clear Skies Act, S. 484.

The meeting will be held in SD 406.

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

SUBCOMMITTEE ON CONSUMER AFFAIRS AND PRODUCT SAFETY

Mr. CORNYN. Mr. President, I ask unanimous consent that the subcommittee on Consumer Affairs and Product Safety be authorized to meet on Tuesday, April 8, 2003 at 10 a.m. on promoting corporate responsibility through the elimination of dividend taxation.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. CORNYN. Mr. President, I ask unanimous consent that the subcommittee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Tuesday, April 8, 2003 at 9:30 a.m. for a hearing entitled ''The Human Capital Challenge: Offering Solutions and Delivering Results'' to review the federal government's strategic human capital management and consider pending legislation on the federal workforce.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. CORNYN. Mr. President, I ask unanimous consent that the subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, April 8, 2003 at 2:30 p.m., in open and possibly closed session, to receive testimony on strategic forces and policy in review of the defense authorization request for fiscal year 2004.

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

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent for floor privileges during the consideration of the CARE Act for Tyler Garnett and Shawn White.

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

EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT, 2003

On April 7, 2003, the Senate amended and passed H.R. 1559, as follows:

Resolved, That the bill from the House of Representatives (H.R. 1559) entitled ''An Act making emergency wartime supplemental appropriations for the fiscal year ending September 30, 2003, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, and for other purposes, namely:

TITLE I—SUPPLEMENTAL APPROPRIATIONS

CHAPTER 1

AGRICULTURAL PROGRAMS

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $98,000,000, to remain available until expended.

PUBLIC LAW 480 TITLE II GRANTS

(INCLUDING TRANSFER OF FUNDS)

For additional expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior year's costs, including interest thereon, under the Agricultural Trade Development Act of 1954, $600,000,000, to remain available until expended, for commodities supplied in connection with dispositions abroad under title II of said Act: Provided, That of this amount, $155,000,000 shall be used to restore funding for previously approved fiscal year 2003 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: Provided further, That of the funds provided under this heading, the Secretary of Agriculture shall transfer to the Commodity Credit Corporation such sums as are necessary to acquire, and shall acquire, a quantity of commodities for use in administering the Bill Emerson Humanitarian Trust in an amount equal to the quantity allocated by the Corporation pursuant to the release of March 19, 2003, and the release of March 20, 2003: Provided further, That the authority contained in 7 U.S.C. 1736f–1(c)(4) shall not apply during fiscal year 2003 for any release of commodities after the date of enactment of this Act.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 101. TECHNICAL ASSISTANCE FOR CONSERVATION PROGRAMS. (a) IN GENERAL.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by striking subsection (b) and inserting the following:

''(b) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—Effective beginning on the date of enactment of the Agricultural Assistance Act of 2003, subject to paragraph (2), Commodity Credit Corporation funds made available under paragraphs (4) through (7) of subsection (a) shall be available for the provision of technical assistance (subject to section 1242) for the conservation programs specified in subsection (a).

''(2) CONSERVATION SECURITY PROGRAM.—Effective for fiscal year 2004 and subsequent fiscal years, Commodity Credit Corporation funds made available to carry out the conservation security program under subsection (a)(3)—

''(A) shall be available for the provision of technical assistance for the conservation security program; and

''(B) shall not be available for the provision of technical assistance for conservation programs specified in subsection (a) other than the conservation security program.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on February 20, 2003.

SEC. 102. REPORT ON BILL EMERSON HUMANITARIAN TRUST AND FUTURE OF UNITED STATES FOOD AID. Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture (in coordination with the Administrator of the Agency for International Development) shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Subcommittees on Agriculture, Rural Development, and Related Agencies of the Committees on Appropriations of the House of Representatives and the Senate, a report that describes—

(1) the policy of the Secretary with respect to the Bill Emerson Humanitarian Trust established under the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1 et seq.), including whether that policy includes an intent to replenish the Trust; and

(2)(A) the means by which the Secretary proposes to ensure that the United States retains the long-term strategy and capability to respond to emergency international food shortages; and

(B) whether, and to what extent, other food aid programs conducted by the Secretary and the Administrator will be a part of that strategy.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

DETENTION TRUSTEE

For an additional amount for ''Detention Trustee'' for the detention of Federal prisoners in the custody of the United States Marshals Service, $45,000,000, to remain available until September 30, 2003.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY LAW ENFORCEMENT SUPPORT

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to administer and support joint Federal, State, local, and foreign law enforcement activities, including the design, development, test, deployment, maintenance, upgrade, or retirement of systems; the purchase, lease, loan, or maintenance of equipment and vehicles; the design, construction, maintenance, upgrade, or demolition of facilities; and travel, overtime, and other support, $72,000,000, which shall remain available until December 31, 2003: Provided, That the funds provided under this heading shall be managed only by the Attorney General or the Deputy Attorney General to be transferred to, and merged with, any appropriations account under this title: Provided further, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003, and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Federal Bureau of Investigation'', $63,000,000, to remain available until December 31, 2003, of which $13,380,000 shall be for language translation

needs, of which $20,270,000 shall be for the Federal Bureau of Investigation participation in the Terrorist Threat Integration Center, and of which $29,350,000 shall be for the incorporation of the Foreign Terrorist Tracking Task Force into the Terrorist Threat Integration Center: Provided, That the funds provided under this heading shall not be available for obligation or expenditure except in compliance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003.

CONSTRUCTION

For an additional amount for ''Federal Bureau of Investigation, Construction'', $10,000,000, to remain available until September 30, 2004, to accelerate construction and fit out of the new wing of the Engineering Research Facility.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'', $91,000,000, to remain available until December 31, 2003, for the terrorism prevention and response training for law enforcement and other responders for increased costs associated with heightened homeland security alerts and law enforcement needs related to the temporary replacement of veteran officers called to duty: Provided, That the funds provided under this heading shall not be available for obligation or expenditure except in compliance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003.

COMMUNITY ORIENTED POLICING SERVICES

For an additional amount for ''Community Oriented Policing Services'', $109,500,000, to remain available until December 31, 2003, shall be for the Community Oriented Policing Services, Interoperable Communications Technology Program, for grants to States and localities to improve communications within and among law enforcement agencies: Provided, That the funds provided under this heading shall not be available for obligation or expenditure except in compliance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'', $83,420,000: Provided, That $15,600,000, to remain available until December 31, 2003, shall only be available for medical services: Provided further, That $2,000,000 shall only be available for the Consular Affairs requirements relating to American citizen services: Provided further, That $30,020,000 shall only be available for Machine Readable Visa fee shortfalls affecting the Border Security Program: Provided further, That notwithstanding any other provision of law, any shortfall in fee revenue resulting from a decrease in the number of visa applications to the United States shall be offset by a direct transfer of funds equal to the amount of the shortfall from the Diplomatic and Consular Programs general account to the Appropriations Point Deliminator Account Number X0113.6: Provided further, That $35,800,000 shall only be available for costs associated with the re-establishment of a United States diplomatic presence in Baghdad, Iraq, of which $17,900,000 is for operational requirements, including housing, furniture, sundries, travel, vehicles, and office supplies and furnishings, and $17,900,000 is for security, of which $5,300,000 is for information technology, $1,945,000 is for courier shipments, $3,789,000 is for temporary duty assignments, and $2,503,000 is for armored vehicles, spares, and repairs.

In addition, for the costs of worldwide security upgrades, including increased local guard protection, chemical and biological countermeasures, requirements relating to intelligence, the assignment of temporary personnel to United States diplomatic presences, armored vehicles, and the security of the domestic facilities of the Department of State, $10,000,000, to remain available until December 31, 2003.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $72,000,000: Provided, That of the funds appropriated under this heading, $20,000,000 shall only be available for capital costs associated with the re-establishment of a United States Diplomatic presence in Baghdad, Iraq: Provided further, That of the funds appropriated under this heading, not less than $52,000,000 shall be available for the Center for Antiterrorism and Security Training.

In addition, for security enhancements to non-official facilities frequented by United States citizens overseas, including schools attended by the dependents of non-military United States Government personnel, $10,000,000, to remain available until September 30, 2004.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for ''Emergencies in the Diplomatic and Consular Service'', $40,000,000, to remain available until expended: Provided, That the Secretary of State may collect from the head of any other agency of the United States the cost incurred by the Department of State for evacuating an employee of such agency, and any member of the family of such an employee, from a location in a foreign country where the employee is authorized to be in connection with the performance of the employee's official duties: Provided further, That the head of an agency shall pay the Secretary of State the amount certified by the Secretary as the cost of evacuation of that agency's personnel: Provided further, That amounts collected by the Secretary of State under the previous two provisos shall be credited to the appropriation charged such cost, shall be merged with other sums in such appropriation, and shall be available for the same purposes and period as the appropriation to which credited within 60 days of certification by the Secretary of State.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'', $62,000,000, to remain available until September 30, 2004, for activities related to the Middle East Television Network broadcasting and radio broadcasting to Iraq.

CHAPTER 3

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $7,724,500,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $1,784,300,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $1,254,900,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $2,834,800,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $6,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $110,000,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $16,142,500,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $5,296,600,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,752,700,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $7,209,200,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $4,007,700,000, to remain available until expended, of which $1,400,000,000, which may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical and military-related support provided to the United States in connection with military action in Iraq and the global war on terrorism: Provided, That such payments may be made in such amounts as the Secretary of Defense, with concurrence of the Secretary of State and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States and 15 days following notification to the appropriate congressional committees.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $15,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $50,000,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $88,400,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Air National Guard'', $20,000,000.

NATURAL RESOURCES RISK REMEDIATION FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to address emergency fire fighting, repair of damage to oil facilities and related infrastructure and preserve a distribution capability, $489,300,000, to remain available until expended: Provided, That the Secretary of Defense may accept from any person, foreign government, or international organization, and credit to this fund, any contribution of money for such purposes: Provided further, That the Secretary of Defense may transfer these funds to other appropriations or funds of the Department of Defense to carry out such purposes, or to reimburse such appropriations or funds for expenses incurred for such purposes: Provided further, That funds so transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees of any transfer of funds from this appropriation: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred

from this appropriation are not necessary for the purposes provided, such amounts may be transferred back to this appropriation.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $4,100,000.

MISSILE PROCUREMENT, ARMY

For an additional amount for ''Missile Procurement, Army'', $3,100,000.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $53,300,000.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $447,500,000.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $241,800,000.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $113,600,000.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $451,000,000.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for ''Research, Development, Test and Evaluation, Army'', $11,500,000.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Defense Working Capital Funds'', $550,000,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $501,700,000.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'', $34,000,000.

DEFENSE EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Defense Emergency Response Fund'', $11,019,000,000, to remain available until expended for ongoing military operations in Iraq, and those operations authorized by Public Law 107–040, of which not to exceed $50,000,000, to remain available until September 30, 2003, to support the military operations or activities of foreign nations in furtherance of the global war on terrorism, including equipment, supplies, services, and funding on such terms as the Secretary of Defense, following notification of the congressional defense committees, and with the concurrence of the Secretary of State, may determine: Provided, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster Assistance, and Civic Aid; procurement; research, development, test and evaluation; military construction; the Defense Health Program; and working capital funds: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Defense Oversight Committees of the details of any transfer of funds from the ''Defense Emergency Response Fund'': Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Under the heading, ''Operation and Maintenance, Defense-Wide'', in title II of the Department of Defense Appropriations Act, 2003 (Public Law 107–248), strike ''$25,000,000'' and insert ''$50,000,000''. Section 166a of title 10, United States Code, is amended by striking ''$7,000,000'' in subsection (e)(1)(A) and inserting ''$15,000,000''; by striking ''$1,000,000'' in subsection (e)(1)(B) and inserting ''$10,000,000''; and by striking ''$2,000,000'' in subsection (e)(1)(C) and inserting ''$10,000,000''.

SEC. 302. Under the heading, ''Operation and Maintenance, Defense-Wide'', in title II of the Department of Defense Appropriations Act, 2003 (Public Law 107–248), strike ''$34,500,000'' and insert ''$45,000,000''.

(TRANSFER OF FUNDS)

SEC. 303. Section 8005 of the Department of Defense Appropriations Act, 2003 (Public Law 107–248), is amended—

(1) by striking ''$2,000,000,000'', and inserting ''$3,500,000,000''; and

(2) by striking the date ''May 31, 2003'', and inserting ''June 30, 2003''.

(TRANSFER OF FUNDS)

SEC. 304. In addition to amounts made available elsewhere in this Act for the Department of Defense, $165,000,000 is appropriated to the Department of Defense to reimburse applicable appropriations for the value of drawdown support provided by the Department of Defense under the Afghanistan Freedom Support Act of 2002: Provided, That this appropriation shall not increase the limitation set forth in section 202(b) of that Act: Provided further, That the Secretary of Defense may transfer the funds provided herein to the applicable appropriations of the Department of Defense: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense.

SEC. 305. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(TRANSFER OF FUNDS)

SEC. 306. Of the amounts available to the Department of Defense, $63,500,000 may be used to reimburse applicable appropriations for the value of support provided by the Department of Defense under the Iraq Liberation Act of 1998: Provided, That this appropriation shall not increase the limitation set forth in section (4)(a)(2)(B) of that Act: Provided further, That the Secretary of Defense may transfer the funds provided herein to the applicable appropriations of the Department of Defense: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense.

SEC. 307. EXPANDED USE OF COOPERATIVE THREAT REDUCTION FUNDS. (a) IN GENERAL.—

(1) Notwithstanding any other provision of law, during fiscal year 2003 the President may use Cooperative Threat Reduction funds, including Cooperative Threat Reduction funds for a prior fiscal year that remain available for obligation as of the date of the enactment of this Act, for proliferation threat reduction projects and activities outside the states of the former Soviet Union if the President determines that such projects and activities will:

(A) assist the United States in the resolution of critical emerging proliferation threats; or

(B) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals.

(2) The amount that may be obligated under paragraph (1) in each fiscal year for projects and activities described in that paragraph may not exceed $50,000,000.

(b) AUTHORIZED USES OF FUNDS.—The authority under subsection (a) to use Cooperative Threat Reduction funds for a project or activity includes authority to provide equipment, goods, and services for the project or activity, and shall be subject to 22 U.S.C. Sec. 5955.

SEC. 308. None of the funds provided in this Act may be used to fund a program previously prohibited by the Congress, or to initiate a new procurement or research, development, test and evaluation program without prior notification of the congressional defense committees.

SEC. 309. The Secretary of Defense shall notify the congressional defense committees no later than 15 days after the obligation of funds appropriated in this Act for military construction activities or minor construction in excess of $7,500,000.

SEC. 310. From funds appropriated in the Department of Defense Appropriations Act, 2003, Public Law 107–248, under the heading ''Operation and Maintenance, Air Force'', not more than $6,800,000 is available to build and install fiber optic and power improvements and upgrades at the 11th Air Force Range.

SEC. 311. Section 811(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2608; 10 U.S.C. 2406c note) is amended by striking ''on or after the date of the enactment of this Act'' and inserting ''on or after January 1, 2004''.

SEC. 312. From funds appropriated in the Department of Defense Appropriations Act, 2003, Public Law 107–248, under the heading ''Operation and Maintenance, Army National Guard'', not more than $3,000,000 is available to build an Infantry Brigade Rifle Range for the South Carolina National Guard.

SEC. 313. Appropriations available during fiscal year 2003 under the heading ''Operation and Maintenance, Army'' for the Air Battle Captain program at the University of North Dakota, may be used to provide summer flight training to United States Military Academy cadets.

SEC. 314. (a) INCREASE IN IMMINENT DANGER SPECIAL PAY.—Section 310(a) of title 37, United States Code, is amended by striking ''$150'' and inserting ''$225''.

(b) INCREASE IN FAMILY SEPARATION ALLOWANCE.—Section 427(a)(1) of title 37, United States Code, is amended by striking ''$100'' and inserting ''$250''.

(c) EXPIRATION.—(1) The amendments made by subsections (a) and (b) shall expire on September 30, 2003.

(2) Effective on September 30, 2003, sections 310(a) of title 37, United States Code, and 427(a)(1) of title 37, United States Code, as in effect on the day before the date of the enactment of this Act are hereby revived.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2002 and shall apply with respect to months beginning on or after that date.

SEC. 315. (a) None of the funds appropriated by this Act may be obligated or expended to reduce the number of American Registry of Pathology personnel used by the Armed Forces Institute of Pathology for programs, projects, and activities of the Institute during fiscal year 2003 below the number of such personnel who are so used as of April 1, 2003.

(b) Of the total amount appropriated by chapter 3 of title I under the heading ''Defense Health Program'', $7,500,000 shall be available for the Armed Forces Institute of Pathology.

SEC. 316. Of the funds appropriated in the Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following account and program in the specified amount: ''Research, Development, Test and Evaluation, Navy, 2003'', $3,400,000.

SEC. 317. In the case of a member of the Armed Forces who is ill or injured as described in section 411h of title 37, United States Code, as a result of service on active duty in support of Operation Noble Eagle, Operation Enduring Freedom or Operation Iraqi Freedom, the travel and transportation benefits under that section may be provided to members of the family of the ill or injured member without regard to whether there is a determination that the presence of the family member may contribute to the member's health and welfare.

SEC. 318. (a) For a member of the Armed Forces medically evacuated for treatment in a medical facility, or for travel to a medical facility or the member's home station, by reason of an illness or injury incurred or aggravated by the member while on active duty in support of Operation Noble Eagle, Operation Enduring Freedom or Operation Iraqi Freedom, the Secretary of the military department concerned may procure civilian attire suitable for wear by the member during the travel.

(b) The Secretary may not expend more than $250 for the procurement of civilian attire for any member under subsection (a).

CHAPTER 4

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATIONS AND MAINTENANCE, GENERAL

For an additional amount for homeland security expenses, for ''Operations and Maintenance, General'', $29,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for homeland security expenses, for ''Water and Related Resources'', $25,000,000, to remain available until expended.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

SCIENCE

For an additional amount for ''Science'' for expenses necessary to support safeguards and security of nuclear and other facilities and for other purposes, $11,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount for ''Weapons Activities'' for expenses necessary to safeguard nuclear weapons and nuclear material, $61,000,000, to remain available until expended: Provided, That $25,000,000 of the funds provided shall be available for secure transportation asset activities: Provided further, That $36,000,000 of the funds provided shall be available to meet increased safeguards and security needs throughout the nuclear weapons complex.

NUCLEAR NONPROLIFERATION

For an additional amount for ''Nuclear Nonproliferation'' for expenses necessary to safeguard fissile nuclear material, $150,000,000, to remain available until expended: Provided, That $84,000,000 of the funds provided shall be available for the development and deployment of nuclear detectors at mega seaports, in coordination with the Department of Homeland Security Bureau of Customs and Border Protection: Provided further, That $17,000,000 of the funds provided shall be available for detection and deterrence of radiological dispersal devices: Provided further, That $17,000,000 of the funds provided shall be available for nonproliferation assistance to nations other than the Former Soviet Union: Provided further, That $15,000,000 of the funds provided shall be available for nuclear nonproliferation verification programs, including $2,500,000 for the Caucasus Seismic Network: Provided further, That $5,000,000 of the funds provided shall be available for the packaging and disposition of any nuclear material found in Iraq: Provided further, That $5,000,000 of the funds provided shall be available for nuclear material detection materials and devices: Provided further, That $5,000,000 of the funds provided shall be available for international export control cooperation activities: Provided further, That $2,000,000 of the funds provided shall be available for vulnerability assessments of spent nuclear fuel casks.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For an additional amount for ''Defense Environmental Restoration and Waste Management'', for expenses necessary to support safeguards and security activities at nuclear and other facilities, $6,000,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For an additional amount for ''Other Defense Activities'', $18,000,000, to remain available until expended, for increased safeguards and security of Department of Energy facilities and personnel, including intelligence and counterintelligence activities: Provided, That this amount shall be available for transfer to other accounts within the Department of Energy for other expenses necessary to support elevated security conditions 15 days after a notification to the Congress of the proposed transfers.

CHAPTER 5

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUNDS

For an additional amount for ''Child Survival and Health Programs Fund'', $90,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $112,500,000: Provided, That amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961 for the purpose of addressing relief and rehabilitation needs in Iraq, prior to enactment of this Act, shall be in addition to the amount that may be obligated in any fiscal year under that section.

LOAN GUARANTEES TO ISRAEL

During the period beginning March 1, 2003 and ending September 30, 2005, loan guarantees may be made available to Israel, guaranteeing 100 percent of the principal and interest on such loans, any part of which is to be guaranteed, not to exceed $9,000,000,000: Provided, That guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967: Provided further, That the amount of guarantees that may be issued shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the period from March 1, 2003 to the date of issue of the guarantee, for activities which the President determines are inconsistent with the objectives and understandings reached between the United States and the Government of Israel regarding the implementation of the loan guarantee program: Provided further, That no appropriations are available under this heading for the subsidy costs for these loan guarantees: Provided further, That the Government of Israel will pay the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, including any non-payment exposure risk, associated with the loan guarantees issued in any fiscal year on a pro rata basis as each guarantee is issued during that year: Provided further, That all fees associated with the loan guarantees shall be paid by the Government of Israel to the Government of the United States: Provided further, That funds made available for assistance to Israel under chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Israel to pay such fees to the United States Government: Provided further, That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: Provided further, That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2005, the authority to issue the balance of such guarantees shall extend to the subsequent fiscal year: Provided further, That the President shall determine the terms and conditions for issuing guarantees, taking into consideration the budgetary and economic reforms undertaken by Israel: Provided further, That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the loan guarantees not yet issued under this section.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $23,600,000, of which not more than $2,000,000 may be transferred to and merged with ''Operating Expenses of the United States Agency for International Development Office of Inspector General''.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for ''Economic Support Fund'', $2,357,900,000, of which the amounts specified herein shall be available as follows:

(1) $300,000,000, to remain available until September 30, 2005, only for grants for Egypt: Provided, That during the period beginning March 1, 2003 and ending September 30, 2005, loan guarantees may be made to Egypt, the principal amount, any part of which is to be guaranteed, shall not exceed $2,000,000,000: Provided further, That up to $379,600,000 in funds appropriated under this heading in prior foreign operations, export financing, and related programs appropriations Acts for Egypt, including funds provided as Commodity Import Program assistance, may be made available on a grant basis as a cash transfer.

(2) $1,000,000,000 to remain available until September 30, 2005, only for grants for Turkey: Provided, That during the period beginning March 1, 2003 and ending September 30, 2005, direct loans or loan guarantees may be made to Turkey, the principal amount of direct loans or loans, any part of which is to be guaranteed, shall not exceed $8,500,000,000: Provided further, That none of the funds made available under this heading for Turkey may be made available if Turkey unilaterally deploys troops into northern Iraq during Operation Iraqi Freedom: Provided further, That the Secretary of State may waive the requirement of the previous proviso if he determines that to do so is in the national security interest of the United States: Provided further, That any balance of funds not made available to Turkey under this paragraph shall

be transferred to, and merged with, funds appropriated for ''Iraq Relief and Reconstruction Fund''.

(3) The Government of Egypt and the Government of Turkey will pay the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, including any non-payment exposure risk, associated with these loan guarantees: Provided further, That all fees associated with these loan guarantees or loans shall be paid by the Government of Egypt and the Government of Turkey to the Government of the United States: Provided further, That funds made available for assistance for Egypt and Turkey under chapter 4 of Part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Egypt and the Government of Turkey to pay such fees and costs to the United States Government: Provided further, That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: Provided further, That the President shall determine the terms and conditions for providing the economic assistance authorized in paragraphs (1) and (2): Provided further, That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this heading, and shall transfer, and merge, such economic assistance with the ''Iraq Relief and Reconstruction Fund''.

(4) $700,000,000 for assistance for Jordan.

(5) Not less than $50,000,000 for assistance for the Philippines to further prospects for peace in Mindanao.

UNITED STATES EMERGENCY FUND FOR COMPLEX FOREIGN CRISES

For necessary expenses to enable the President to respond to unforeseen complex foreign crises, $150,000,000, to remain available until expended: Provided, That funds appropriated under this heading may be made available only pursuant to a determination by the President that is in the national interest to furnish assistance on such terms and conditions as he may determine, after consultation with Congress, for the purpose of responding to such crises, including support for peace and humanitarian intervention operations: Provided further, That none of the funds appropriated under this heading shall be available to respond to natural disasters: Provided further, That for funds appropriated under this heading the President may make allocations to Federal agencies, other than the Department of Defense, to carry out the authorities provided under this heading: Provided further, That funds appropriated by this paragraph shall be made available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: Provided further, That the President may furnish assistance under this heading notwithstanding any other provision of law: Provided further, That the previous proviso shall not apply to section 553 of Public Law 108–7: Provided further, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that notifications shall be transmitted at least 5 days in advance of the obligations of funds: Provided further, That the requirements of the previous proviso may be waived if failure to do so would pose a substantial risk to human health or welfare: Provided further, That in case of any such waiver, notification to the Committees on Appropriations shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: Provided further, That any notification provided pursuant to such waiver shall contain an explanation of the emergency circumstances.

INDEPENDENT AGENCIES

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $25,000,000, to remain available until September 30, 2004.

ANDEAN COUNTERDRUG INITIATIVE

For an additional amount for the ''Andean Counterdrug Initiative'', $34,0000,000, to remain available until September 30, 2004: Provided, That of the funds appropriated under this heading that are made available for Colombia, not less than $5,000,000 should be made available for programs and activities to assist women and children who have been displaced as a result of armed conflict.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for ''United States Emergency Refugee and Migration Assistance Fund'', $75,000,000, to remain available until expended, notwithstanding section 2(c)(2) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)(2)).

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $28,000,000: Provided, That funds appropriated by this paragraph shall be available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $2,059,100,000: Provided, That funds appropriated by this paragraph shall be available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: Provided further, That of the funds appropriated under this heading, not less than $1,000,000,000 shall be made available for assistance for Israel and not less than $406,000,000 shall be made available for assistance for Jordan: Provided further, That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: Provided further, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $263,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: Provided further, That up to $20,000,000 of the funds appropriated by this paragraph may be transferred to and merged with funds appropriated under the heading ''Andean Counterdrug Initiative'' for aircraft, training, and other assistance for the Colombian Armed Forces: Provided further, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that notifications shall be transmitted at least 10 days in advance of the obligation of funds.

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $150,000,000.

OTHER BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

IRAQ RELIEF AND RECONSTRUCTION FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for humanitarian assistance in and around Iraq and for rehabilitation and reconstruction in Iraq, $2,468,300,000, including for the costs of: (1) feeding and food distribution; (2) supporting 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; (3) humanitarian demining; (4) healthcare; (5) water/sanitation infrastructure; (6) education; (7) electricity; (8) transportation; (9) telecommunications; (10) rule of law and governance; (11) economic and financial policy; and (12) agriculture: Provided, That these funds may be transferred to and made available for any Federal Government activity, other than any Department of Defense activity, for expenses to meet such costs: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That funds appropriated under this heading shall be used to fully reimburse accounts administered by the Department of State and the United States Agency for International Development, not otherwise reimbursed from funds appropriated by this chapter, for obligations incurred for the purposes provided under this heading prior to enactment of this Act from funds appropriated for foreign operations, export financing, and related programs: Provided further, That prior to the initial transfer of funds made available under this heading to any Agency or Department, the Secretary of State shall consult with the Committees on Appropriations on plans for the use of the funds appropriated under this heading that will be used for assistance for Iraq: Provided further, That the United States may accept from any person, foreign government, or international organization, and credit to this Fund, any contribution of money for such purposes: Provided further, That funds appropriated under this heading shall be available notwithstanding any other provision of law, including section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: Provided further, That the previous proviso shall not apply to section 553 of Public Law 108–7: Provided further, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriation, except that notifications shall be transmitted at least 5 days in advance of the obligations of funds: Provided further, That of the funds appropriated under this heading, $4,300,000 shall be made available to the United States Agency for International Development Office of Inspector General for the purpose of monitoring and auditing expenditures for reconstruction and related activities in Iraq: Provided further, That such sums are in addition to funds otherwise made available by this Act to such office

GENERAL PROVISIONS, THIS CHAPTER

SEC. 501. Any appropriation made available in this chapter under the headings ''International Disaster Assistance'', ''United States Emergency Refugee and Migration Assistance Fund'', ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', ''Peacekeeping Operations'', or ''Iraq Relief and Reconstruction Fund'' may be transferred between such appropriations for use for any of the purposes for which the funds in the such receiving account may be used: Provided, That the total amount transferred from funds appropriated under each of these headings shall not exceed $200,000,000: Provided further, That the Secretary of State

shall consult with the Committee on Appropriations prior to exercising the authority contained in this section: Provided further, That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations, except that notification shall be transmitted at least 5 days in advance of the obligations of funds.

SEC. 502. Assistance or other financing under this chapter may be made available for assistance to Iraq notwithstanding any other provision of law: Provided, That the authority contained in this section shall not apply to section 553 of Public Law 108–7: Provided further, That funds made available for assistance for Iraq pursuant to this authority shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, except that notification shall be transmitted at least 5 days in advance of the obligation of funds.

SEC. 503. The Iraq Sanctions Act of 1990 is hereby repealed: Provided, That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except as such Act applies to water purification items and other humanitarian assistance for the Iraqi people: Provided further, That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961, as amended, or other provision of law that applies to countries that have supported terrorism: Provided further, That section 307 of the Foreign Assistance of 1961, as amended, shall not apply with respect to programs of international organizations for Iraq: Provided further, That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq should not be construed as applying to Iraq.

SEC. 504. Notwithstanding any other provision of law, the President may authorize the export to Iraq of any item subject to the Export Administration Regulations, 15 CFR chapter VII, subchapter C, or controlled under the International Trafficking in Arms Regulations on the United States Munitions List established pursuant to section 38 of the Arms Export Control Act, 22 U.S.C. 2778, if the President determines that the export of such item is in the national interest of the United States.

SEC. 505. Of the funds appropriated by this chapter under the heading ''Economic Support Fund'', $10,000,000 should be made available for investigations and research into allegations of war crimes, crimes against humanity, or genocide committed by Saddam Hussein or other Iraqis, and for the establishment of an international tribunal to bring these individuals to justice: Provided, That 90 days after enactment of this Act, the Secretary of State shall report to the Committees on Appropriations on plans for the prosecution of these individuals, including jurisdictional options.

SEC. 506. It is the Sense of the Senate that, to the maximum extent practicable, contracts (including subcontracts) and grants for relief and reconstruction in Iraq from funds appropriated under this chapter should be awarded to United States companies (particularly small and medium sized businesses) and organizations, to companies and organizations located in the Near East region, and to those from countries which have provided assistance to Operation Iraqi Freedom.

SEC. 507. It is the sense of the Senate that the reconstruction of Iraq should be funded to the maximum extent practicable from revenues produced by Iraqi oil and that the United States Government should work with our allies, the future government of a free Iraq, and other appropriate entities to establish the necessary framework for this arrangement.

SEC. 508. Division E of Public Law 108–7, under the heading ''Assistance for the Independent States of the Former Soviet Union'', is amended by inserting in subsection (f) before the period: '': Provided further, That such funds may be made available without regard to the restriction in this subsection if the Secretary of State determines that to do so is in the national security interest of the United States''.

CHAPTER 6

DEPARTMENT OF HOMELAND SECURITY

DEPARTMENTAL MANAGEMENT

COUNTERTERRORISM FUND

For an additional amount for the ''Counterterrorism Fund,'' for necessary expenses as determined by the Secretary of Homeland Security, $1,135,000,000, to remain available until December 31, 2003, to reimburse any Department of Homeland Security organization for the costs of providing support to prevent, counter, investigate, respond to, or prosecute unexpected threats or acts of terrorism: Provided, That of the total amount appropriated, not to exceed $215,000,000 may be transferred to any authorized Federal Government activity for necessary expenses to detect, prepare for, protect against, or respond to a potential terrorist attack: Provided further, That the Secretary shall notify the Committees on Appropriations of the Senate and House of Representatives 15 days prior to the obligation of any amount of these funds.

BORDER AND TRANSPORTATION SECURITY

OFFICE FOR DOMESTIC PREPAREDNESS

For an additional amount for the ''Office for Domestic Preparedness'', as authorized by Sections 403(5) and 430 of the Homeland Security Act of 2002 (Public Law 107–296) and Section 1014 of the USA PATRIOT ACT of 2001 (Public Law 107–56), for grants, contracts, cooperative agreements, and other activities, including grants to States for terrorism prevention activities, $2,200,000,000, to remain available until expended: Provided, That of the total amount appropriated, $1,270,000,000 shall be made available for grants to states, and each state grant award shall ensure that at least 80 percent of the total amount of the grant shall be allocated to local governments within 60 days of receipt of the funds: Provided further, That of the total amount appropriated, $300,000,000 shall be made available for grants to states for critical infrastructure protection, and each grant award shall ensure that no less than one-third of the total amount of the grant shall be allocated to local governments within 60 days of receipt of the funds: Provided further, That of the total amount appropriated, $600,000,000 shall be made available for protection or preparedness of high-threat urban areas, as determined by the Secretary of Homeland Security.

COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'' for the Coast Guard in support of Department of Defense initiatives in relation to Operation Iraqi Freedom and Operation Liberty Shield, $580,000,000, to remain available until December 31, 2003: Provided, That the Secretary shall notify the Committees on Appropriations of the Senate and House of Representatives 15 days prior to obligation of any amount of these funds.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFERS OF FUNDS)

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 197, $109,500,000, to remain available until expended: Provided, That this amount shall be for grants to improve public safety communications and interoperability.

GENERAL PROVISION, THIS CHAPTER

SEC. 601. The Bureau of Customs and Border Protection shall inspect all commercial motor vehicles (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste and seeking to enter the United States through the Blue Water Bridge port-of-entry in Port Huron, Michigan, and the Ambassador Bridge port-of-entry in Detroit, Michigan, and ensure that by May 2003, the Blue Water Bridge in Port Huron, Michigan, shall be—

(1) equipped with radiation detection equipment; and

(2) staffed by Bureau inspectors formally trained in the process of detecting radioactive materials in cargo and equipped with both portal monitor devices and hand-held isotope identifiers.

SEC. 602. TSA TO ISSUE LETTERS OF INTENT REGARDING INSTALLATION OF EDS AT AIRPORTS. (a) IN GENERAL.—The Under Secretary of Homeland Security for Transportation and Border Security may issue letters of intent to airports to provide assistance for the installation of explosive detection systems by the date prescribed by section 44901(d)(2)(i) of title 49, United States Code.

(b) REPORT.—Beginning 30 days after the date of enactment of this Act, and every 60 days thereafter in calendar year 2003, the Under Secretary shall transmit a classified report to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation describing each letter of intent issued by the Under Secretary under subsection (a).

SEC. 603. In accordance with section 873(b) of the Homeland Security Act of 2002 (6 U.S.C. 453(b)), the Bureau of Customs and Border Protection may accept donations of body armor for United States border patrol agents and United States border patrol canines if such donations would further the mission of protecting our Nation's border and ports of entry as determined by the Under Secretary for Border and Transportation Security.

CHAPTER 7

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for the ''Public Health and Social Services Emergency Fund'', $35,000,000 for costs associated with compensating individuals with injuries resulting from smallpox vaccinations and countermeasures, to remain available until expended: Provided, That such funds shall become available only upon the enactment of legislation authorizing a smallpox vaccination compensation program.

SMALLPOX AND OTHER BIOTERRORISM

INOCULATION ACTIVITIES

For additional expenses necessary to support grants to States for smallpox and other bioterrorism inoculation activities, $105,000,000, to remain available until September 30, 2004: Provided, That this amount is transferred to the Centers for Disease Control and Prevention.

SEVERE ACUTE RESPIRATORY SYNDROME (SARS)

For an additional amount for ''Centers for Disease Control and Prevention, Disease Control, Research, and Training'', $16,000,000 for costs associated with the prevention and control of Severe Acute Respiratory Syndrome (SARS).

GENERAL PROVISION

REPATRIATION

SEC. 701. Section 1113(d) of the Social Security Act (42 U.S.C. 1313(d)), is amended by striking ''1991'' and inserting ''2003''.

CHAPTER 8

LEGISLATIVE BRANCH

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for ''General expenses'', $38,165,000, to remain available until expended.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $111,000.

ARCHITECT OF THE CAPITOL

GENERAL ADMINISTRATION

For an additional amount for ''General administration'', $18,672,000, which shall remain available until September 30, 2007.

CAPITOL BUILDING

For an additional amount for ''Capitol building'', $1,100,000.

CAPITOL POWER PLANT

For an additional amount for ''Capitol power plant'', $14,600,000, which shall remain available until September 30, 2007.

CAPITOL POLICE BUILDINGS AND GROUNDS

For an additional amount for ''Capitol police buildings and grounds'', $40,140,000, to remain available until September 30, 2007.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $5,500,000 to remain available until September 30, 2007.

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $1,863,000, to remain available until September 30, 2007.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $4,849,000.

GENERAL PROVISONS, THIS CHAPTER

SEC. 801. POSTAL PATRON POSTCARDS. The matter under the subheading ''MISCELLANEOUS ITEMS'' under the heading ''CONTINGENT EXPENSES OF THE SENATE'' under title I of the Legislative Branch Appropriations Act, 2003 (Public Law 108–7) is amended by striking ''with a population of less than 250,000''.

CHAPTER 9

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, NAVY

For an additional amount for ''Military Construction, Navy'', $48,100,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $127,400,000, to remain available until September 30, 2007.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Family Housing Operation and Maintenance, Air Force'', $2,000,000, to remain available until September 30, 2007.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 901. (a) Up to $150,000,000 of the amounts made available to the Department of Defense from funds appropriated in this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense certifies are necessary to respond to or protect against acts or threatened acts of terrorism or to prosecute operations in Iraq.

(b) Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection, the Secretary shall notify the appropriate committees of Congress of the following:

(1) the determination to use such amounts for the project; and

(2) the estimated cost of the project and the accompanying Form 1391.

(c) In this section the term ''appropriate committees of Congress'' has the meaning given that term in section 2801(c)(4) of title 10, United States Code.

SEC. 902. (a) The Secretary of the Army may accept funds from the State of Utah, and credit them to the appropriate Department of the Army accounts for the purpose of the funding of the costs associated with extending the runway at Michael Army Airfield, Dugway Proving Ground, Utah, as part of a previously authorized military construction project.

(b) The Secretary may use the funds accepted for the refurbishment, in addition to funds authorized and appropriated for the project. The authority to accept a contribution under this section does not authorize the Secretary of the Army to reduce expenditures of amounts appropriated for the refurbishment project. The funds accepted shall remain available until expended.

(c) The authority provided in this section shall be effective upon the date of the enactment of this Act.

CHAPTER 10

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized, $50,000,000, to remain available until September 30, 2005: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

CHAPTER 11

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the department; and for furnishing recreational facilities, supplies, and equipment incident to the provision of hospital care, medical services, and nursing home care authorized by section 1710(e)(1)(D) of title 38, United States Code, $155,000,000: Provided, That such amount shall remain available until expended.

TITLE II—MISCELLANEOUS AND TECHNICAL CORRECTIONS

CHAPTER 1

SUBCOMMITTEE ON AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

GENERAL PROVISIONS

SEC. 201. (a) Section 756 in Division A of Public Law 108–7 is amended by striking ''section 7404'' and inserting in lieu thereof ''section 7404(a)(1)''.

(b) Section 10806(b) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d(b)) is amended by adding at the end the following:

''(3) EFFECTIVE DATE.—This subsection and the amendment made by this subsection take effect on May 13, 2003.''.

(c) Section 210 of the Agricultural Assistance Act of 2003, ''Assistance to Agricultural Producers Located in New Mexico for Tebuthiuron Application Losses'', is amended in subsection (a)—

(1) by inserting ''all'' before ''losses'';

(2) by inserting after ''losses'' the following: ''to crops, livestock, and trees, and interest and loss of income, and related expenses'';

(3) by striking ''during calendar years 2002 and 2003''; and

(4) by deleting ''August'' and inserting in lieu thereof ''July''.

(d)(1) STUDY ON THE SALE OF MILK INTO CALIFORNIA.—Within 90 days, the Secretary shall report to Congress on the economic impacts to California dairy farmers from handlers or processors of Class I milk products in the Las Vegas-Nevada-Arizona region selling milk or milk products into the California State order.

(2) EXEMPTION OF MILK HANDLERS FROM MINIMUM PRICE REQUIREMENTS.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (as amended by subsection (a)), is amended by adding at the end the following:

''(N) EXEMPTION OF MILK HANDLERS FROM MINIMUM PRICE REQUIREMENTS.—Notwithstanding any other provision of this subsection, prior to January 1, 2005, no handler with distribution of Class I milk products in the Arizona-Las Vegas marketing area (Order No. 131) or Pacific Northwest marketing area (Order No. 124) shall be exempt during any month from any minimum milk price requirement established by the Secretary under this subsection if the total distribution of Class I products within the Arizona-Las Vegas marketing area or the Pacific Northwest marketing area of any handler's own farm production exceeds the lesser of—

''(i) 3 percent of the total quantity of Class I products distributed in the Arizona-Las Vegas marketing area (Order No. 131) or the Pacific Northwest marketing area (Order No. 124); or

''(ii) 5,000,000 pounds.''.

(3) EXCLUSION OF CLARK COUNTY, NEVADA FROM FEDERAL MILK MARKETING ORDERS.—

(A) IN GENERAL.—Section 8c(11)(C) the Agricultural Adjustment Act (7 U.S.C. 608c(11)(C)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking the last sentence and inserting the following: ''In the case of milk and its products, Clark County, Nevada shall not be within a marketing area defined in any order issued under this section.''.

(B) INFORMAL RULEMAKING.—The Secretary of Agriculture may modify an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to implement the amendment made by paragraph (1) by promulgating regulations, without regard to sections 556 and 557 of title 5, United States Code.

(e) LIVESTOCK COMPENSATION PROGRAM.—Section 203(a) of the Agricultural Assistance Act of 2003 (title II of division N of Public Law 108–7)) is amended by adding at the end the following:

''(3) GRANTS.—

''(A) IN GENERAL.—To provide assistance to eligible applicants under paragraph (2)(B), the Secretary shall provide grants to appropriate State departments of agriculture (or other appropriate State agencies) that agree to provide assistance to eligible applicants.

''(B) AMOUNT.—The total amount of grants provided under subparagraph (A) shall be equal to the total amount of assistance that the Secretary determines all eligible applicants are eligible to receive under paragraph (2)(B).''.

SEC. 202. USE OF ORGANICALLY PRODUCED FEED FOR CERTIFICATION AS ORGANIC FARM. Section 771 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2003 (division A of Public Law 108–7) is repealed.

SEC. 203. WILD SEAFOOD. Section 2107 of the Organic Foods Production Act of 1990 (7 U.S.C. 6503) is amended—

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

(2) by inserting after section (b) the following:

''(c) WILD SEAFOOD.—

''(1) IN GENERAL.—Notwithstanding the requirement of section 2107(a)(1)(A) requiring products be produced only on certified organic farms, the Secretary shall allow, through regulations promulgated after public notice and opportunity for comment, wild seafood to be certified or labeled as organic.

''(2) CONSULTATION AND ACCOMMODATION.—In carrying out paragraph (1), the Secretary shall—

''(A) consult with—

''(i) the Secretary of Commerce;

''(ii) the National Organic Standards Board established under section 2119;

''(iii) producers, processors, and sellers; and

''(iv) other interested members of the public; and

''(B) to the maximum extent practicable, accommodate the unique characteristics of the industries in the United States that harvest and process wild seafood.''.

CHAPTER 2

SUBCOMMITTEE ON COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for ''Procurement, Acquisition and Construction'' for satellite programs, $117,060,000, to remain available until September 30, 2004: Provided, That funds provided under this heading for the National Polar-orbiting Operational Environmental Satellite System shall only be made available on a dollar for dollar matching basis with funds provided for the same purpose by the Department of Defense: Provided further, That of the amount provided under this heading, $2,460,000 shall be transferred to, and merged with, funds provided under the heading ''International Fisheries Commissions'' of Division B of Public Law 108–7 and shall only be available for the Pacific Salmon Commission: Provided further, That of the amount provided under this heading, $1,000,000 shall be transferred to, and merged with, funds provided under the heading ''International Fisheries Commissions'' of Division B of Public Law 108–7 and shall only be available for the Great Lakes Fishery Commission, of which $500,000 shall be used for sea lamprey control in Lake Champlain: Provided further, That of the amount made available under this heading, $10,000,000 to remain available until September 30, 2004, shall only be available for the incorporation of additional technologies for disseminating terrorism warnings within the All Hazards Warning Network.

RELATED AGENCIES

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For an additional amount for ''Equal Employment Opportunity Commission, Salaries and Expenses'', $23,300,000, of which $5,000,000 shall remain available until September 30, 2004.

NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SALARIES AND EXPENSES

For an additional amount for ''National Commission on Terrorist Attacks Upon the United States, Salaries and Expenses'', $11,000,000, to remain available until September 30, 2004.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 2001. (a) Of the funds made available in Title I of Division B of Public Law 108–7, under the heading ''Juvenile Justice Programs'', for Family Ties Supervised Visitation Services in Wakefield, Rhode Island, $100,000 are rescinded.

(b) For an additional amount in Title I of Division B of Public Law 108–7, under the heading ''Juvenile Justice Programs'', $529,000, which shall only be available for law enforcement costs related to the Station nightclub fire on February 20, 2003, to remain available until December 31, 2003.

SEC. 2002. Not later than 60 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall jointly report to the Committee on Appropriations on the feasibility of providing access to State and local law enforcement agencies to the database of the Department of State on potential terrorists known as the ''Tipoff'' database including the process by which classified information shall be secured from unauthorized disclosure.

SEC. 2003. For an additional amount for the law enforcement technology program under the heading ''Community Oriented Policing Services'' in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003, $5,000,000 for the Louisville-Jefferson County, Kentucky Public Safety Communications System to implement a common interoperable voice and data communications system for public safety organizations in the metropolitan area.

SEC. 2004. Section 501(b) of title V of division N of the Consolidated Appropriations Resolution, 2003 is amended—

(1) by striking ''program authorized for the fishery in Sec. 211'' and inserting ''programs authorized for the fisheries in sections 211 and 212''; and

(2) by striking ''program in section 211'' and inserting ''programs in sections 211 and 212''.

CHAPTER 3

SUBCOMMITTEE ON DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSIONS)

Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2003 (Public Law 108–7), $9,358,000 are rescinded (including $9,261,000 from local funds and $97,000 from other funds).

ECONOMIC DEVELOPMENT AND REGULATION

For an additional amount for ''Economic Development and Regulation'', $14,998,000 (including $288,000 from local funds and $14,710,000 from other funds).

PUBLIC SAFETY AND JUSTICE

For an additional amount for ''Public Safety and Justice'' (Public Law 108–7), $10,422,000 from local funds.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSIONS)

Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2003 (Public Law 108–7), $11,667,000 are rescinded (including a rescission of $13,778,000 from local funds and an additional amount of $2,111,000 from other funds), to be allocated as follows:

(1) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—An increase of $2,029,000 (including a rescission of $29,000 from local funds and an additional amount of $2,058,000 from other funds);

(2) STATE EDUCATION OFFICE.—A rescission of $181,000 from local funds;

(3) PUBLIC CHARTER SCHOOLS.—Notwithstanding any other provision of law, a rescission of $12,000,000 from local funds: Provided, That of these funds, not less than $3,000,000 shall be used for providing adequate charter school facilities and educational programming in public charter schools in the District of Columbia;

(4) UNIVERSITY OF THE DISTRICT OF COLUMBIA.—A rescission of $1,040,000 from local funds;

(5) DISTRICT OF COLUMBIA PUBLIC LIBRARIES.—A rescission of $221,000 (including a rescission of $273,000 from local funds and an additional amount of $53,000 from other funds); and

(6) COMMISSION ON THE ARTS AND HUMANITIES.—A rescission of $255,000 from local funds.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSIONS)

For an additional amount for ''Human Support Services'', $28,278,000 (including an additional amount of $32,312,000 from local funds and a rescission of $4,034,000 from other funds appropriated under this heading in the District of Columbia Appropriations Act, 2003 (Public Law 108–7).

In addition, this heading in the District of Columbia Appropriations Act, 2003, approved February 20, 2003 (Public Law 108–7), is amended as follows:

(1) by striking the following proviso, ''Provided further, That $3,209,000 of this appropriation, to remain available until expended, shall be deposited in the Interim Disability Assistance Fund to be used exclusively for the Interim Disability Assistance program established by section 201 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Official Code, sec. 4–202.01), and the purposes for that program set forth in section 407 of the District of Columbia Public Assistance Act of 1982, effective April 3, 2001 (D.C. Law 13–252; D.C. Official Code, sec. 4–204.07):'', and

(2) by amending the following proviso, '': Provided further, That $37,500,000 in local funds, to remain available until expended, shall be deposited in the Medicaid and Special Education Reform Fund.'' to read as follows '': Provided further, That $74,500,000 in local funds may be deposited in the Medicaid and Special Education Reform Fund and shall then remain available until expended.''.

PUBLIC WORKS

(INCLUDING RESCISSIONS)

For an additional amount for ''Public Works'', $3,107,000 (including a rescission of $8,311,000 from local funds appropriated under this heading in the District of Columbia Appropriations Act, 2003 (Public Law 108–7), and an additional amount of $11,418,000 from other funds): Provided, That $512,000 from other funds shall remain available until expended for the taxicab revolving loan fund.

REPAYMENT OF LOANS AND INTEREST

(INCLUDING RESCISSIONS)

Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2003 (Public Law 108–7), $2,466,000 are rescinded.

NON-DEPARTMENTAL

(INCLUDING RESCISSIONS)

Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2003 (Public Law 108–7), $5,799,000 are rescinded.

WORKFORCE INVESTMENTS

(INCLUDING RESCISSIONS)

Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2003 (Public Law 108–7), $2,000,000 are rescinded.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 3001. USE OF THE FUND BALANCE. (a) The District of Columbia is hereby authorized to transfer an amount not to exceed $32,900,000, to remain available until expended, from funds identified in the fiscal year 2002 comprehensive annual financial report as the District of Columbia's fund balance to the local general fund to cover the impact of revenue shortfalls associated with the war economy: Provided, That nothing in this provision shall be deemed as granting the District additional authority to expend funds from the emergency or contingency reserves established under section 450A of the District of Columbia Home Rule Act (Public Law 93–198; D.C. Official Code, sec. 1–204.50a(b)).

SEC. 3002. EXTENSION OF CHIEF FINANCIAL OFFICER'S AUTHORITY. The authority which the Chief Financial Officer of the District of Columbia exercised with respect to personnel, procurement, and the preparation of fiscal impact statements during a control period (as defined in Public Law 104–8) shall remain in effect through September 30, 2004.

CHAPTER 4

SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

STATE AND TRIBAL WILDLIFE GRANTS

Division F of Public Law 108–7 is hereby amended under the heading ''United States Fish and Wildlife Service, State and Tribal Wildlife Grants'' by striking ''$3,000,000'' and inserting ''$5,000,000''.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Division F of Public Law 108–7 is hereby amended under the heading ''National Park Service, Operation of the National Park System'' by striking ''$1,565,565,000'' and inserting ''$1,574,565,000''.

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

Within thirty days of enactment of this Act, the Secretary of the Interior shall make available for obligation funds previously appropriated in Public Law 107–63 for construction of the Ojibwa Indian School.

RELATED AGENCY

GENERAL PROVISION

Section 328 of Division F, Public Law 108–7 is amended by striking the phrase ''under the authority of Section 504 of the Rescissions Act of 1995 (Public Law 104–19)'' in the proviso.

Not later than 60 days after the date of the enactment of this Act, the Secretary of the Interior shall provide a report to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Resources and Appropriations of the House of Representatives detailing the Secretary's intent regarding the direct sale of 983 acres in Clark County, Nevada, known as Lake Las Vegas Phase II.

CHAPTER 5

SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for the Employment and Training Administration, ''Training and Employment Services'' to carry out activities authorized under section 171(b) of the Workforce Investment Act, $1,000,000: Provided, That such sum shall be for the Jobs for America's Graduates (JAG) school-to-work program for at-risk young people.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

The matter under the heading ''Department of Health and Human Services, Health Resources and Services Administration, Health Resources and Services'', in Public Law 108–7 is amended—

(1) by striking ''Heart Beat, New Bloomfield, PA,'' and inserting ''Heart Beat, Millerstown, PA,'' in lieu thereof;

(2) by striking ''Tressler Lutheran Services, Harrisburg, PA, for abstinence education and related services'' and inserting ''DIAKON Lutheran Social Ministries, Allentown, PA, for abstinence education and related services in Cumberland and Dauphin counties'' in lieu thereof;

(3) by striking ''Community Ministries of the Lutheran Home at Topton, Reading, PA, for abstinence education and related services'' and inserting ''DIAKON Lutheran Social Ministries of Allentown, PA, for abstinence education and related services in Berks county'' in lieu thereof;

(4) by striking ''$298,153,000'' and inserting ''$296,638,000'' in the first proviso; and

(5) by inserting after ''a study regarding delivery of pediatric health care in northeastern Oklahoma,'' ''$225,000 is available for the Mental Health Association of Tarrant County, Ft. Worth, Texas to provide school-based mental health education to schools in Tarrant County, $200,000 is available for the AIDS Research Institute at the University of California, San Francisco for a Developing Country Medical Program to facilitate clinician exchange between the United States and developing countries, $1,000,000 is available for the Geisinger Health System, Harrisburg, PA to establish centers of excellence for the treatment of autism''.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

The matter under the heading ''Office of the Secretary, Public Health and Social Services Emergency Fund'', in Public Law 108–7 is amended by striking '', to remain available until expended'' after the ''$5,000,000''.

GENERAL PROVISION

INTERNATIONAL HEALTH ACTIVITIES

(a) In addition to the authority provided in section 215 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2003 (Public Law 108–7, Division G), in order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2003, the Secretary of Health and Human Services may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)).

(b) The Secretary of Health and Human Services shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

The matter under the heading ''Department of Education, School Improvement Programs'', in Public Law 108–7 is amended—

(1) by striking ''$8,052,957,000'' and inserting ''$8,053,507,000'';

(2) by striking ''$508,100,000'' and inserting ''$537,100,000'';

(3) by striking ''$4,132,167,000'' and inserting ''$4,233,167,000'';

(4) by striking ''$814,660,000'' and inserting ''$815,210,000''; and,

(5) by striking ''$212,160,000'' and inserting ''$212,710,000''.

In the statement of the managers of the committee of conference accompanying H.J. Res. 2 (Public Law 108–7; House Report 108–10), in the matter in title III of Division G, relating to the Fund for the Improvement of Education under the heading ''School Improvement Programs''—

(1) the provision specifying $150,000 for Illinois State Board of Education, Springfield, Illinois, for computers, hardware and software for the implementation of Fast ForWord reading program to the Pleasant Plains Community Unit District #8 and Pleasant Plain Illinois District #18 shall be deemed to read as follows: ''Illinois State Board of Education, Springfield, Illinois, for implementation of Fast ForWord reading program to the Pleasant Plains Community Unit District #8 and for improving mathematics achievement in Peoria School District #150 and Jacksonville School District #117, $150,000'';

(2) the provision specifying $2,000,000 for Pinellas County Florida School District, St. Petersburg, Florida, for technology for Title I schools shall be deemed to read as follows: ''St. Petersburg College, St. Petersburg, Florida, for the Pinellas County EpiCenter, $2,000,000'';

(3) the provision specifying $500,000 for the St. Louis Children's Museum, MO, for a collaborative project with the St. Louis Public Library to create interactive exhibits and educational programs shall be deleted;

(4) the provision specifying $200,000 for the Harford County Board of Education in Aberdeen, MD, for a collaboration between a science and technology high school and the Aberdeen Proving Ground shall be deemed to read as follows: ''Harford County Board of Education in Aberdeen, MD, for a collaboration between a science and technology high school and the Aberdeen Proving Ground, $700,000'';

(5) the provision specifying $25,000 for the Boys and Girls Club of El Dorado, Arkansas, for drug prevention and after school programs shall be deemed to read as follows: ''Boys and Girls Club, Southeast Unit, El Dorado, Arkansas, for drug prevention and after school programs, $25,000'';

(6) the provision specifying $100,000 for the American Academy of Liberal Education, Washington, D.C., to develop projects and survey best practices in the study of American democracy and principles of free government at colleges and universities shall be deleted;

(7) the provision specifying $400,000 for the Milwaukee Public Schools, Wisconsin, to expand before- and after-school programs shall be deemed to read: ''Milwaukee Public Schools, WI, for before- and after-school programs, $400,000'';

(8) the provision specifying $200,000 for Tensas Reunion, Inc., Newellton, LA, for instructional technology training, and after school programs at the Tensas Charter School shall be deemed to read: ''Tensas Reunion, Inc., Newellton, LA, for the TREES Project in Tensas Parish, including activities such as the purchase of computers and educational software, tutoring, and workshops to promote parental involvement, $200,000'';

(9) the provision specifying $250,000 for Community School District 8, Flushing, NY, for after-school programs shall be deemed to read: ''Community School District 8, Bronx, NY, for after-school programs, $250,000'';

(10) the provision specifying $20,000 for Westside High School, Bakersfield, California, for equipment shall be deemed to read: ''West High School, Bakersfield, California, for equipment, $20,000'';

(11) the provision specifying $1,000,000 for the National Science Center Foundation, Atlanta, Georgia, for educational technology and other purposes shall be deemed to read: ''National Science Center Foundation, Augusta, Georgia, for educational technology and other purposes, $1,000,000'';

(12) the provision specifying $200,000 for the Golden Gate National Parks Association, San Francisco, CA, for environmental education programs at the Crissy Field Center shall be deemed to read: ''Golden Gate National Parks Conservancy, San Francisco, CA, for environmental education programs at the Crissy Field Center, $200,000'' and a provision shall be added that reads: ''Beresford Community Education in Beresford, SD to expand community education programs, $150,000'';

(13) the provision specifying $100,000 for the University of South Florida, Tampa, FL, for the Tampa Bay Consortium for the Development of Educational Leaders and the Preparation and Recruitment of Teachers shall be deemed to read: ''University of South Florida, Tampa, FL, for the Tampa Bay Consortium for the Development of Educational Leaders, $100,000'';

(14) the provision specifying $25,000 for the Meredith-Dunn Learning Disabilities Center, Inc., Louisville, Kentucky for technology shall be deemed to read as follows: ''Meredith-Dunn Learning Disabilities Center, Inc., Louisville, Kentucky for school counseling services, $25,000'';

(15) the provision specifying $40,000 for the Father Maloney's Boys Haven, Louisville, Kentucky for technology shall be deemed to read as

follows: ''Father Maloney's Boys Haven, Louisville, Kentucky for an educational program, $40,000'';

(16) the provision specifying $50,000 for the Joel II Restoration Ministries for education programs shall be deemed to read as follows: ''Joel II Restoration Outreach, Inc. for education programs, $50,000''; and

(17) the provision specifying $1,500,000 for the City of Upland, California, for after school programs shall be deemed to read as follows: ''YMCA of the City of Upland, California, for after-school activities, $1,500,000''.

HIGHER EDUCATION

The matter under the heading ''Higher Education'', in Public Law 108–7 is amended—

(1) by striking ''$2,100,701,000'' and inserting ''$2,100,151,000''; and,

(2) by striking ''$140,599,000'' and inserting ''$140,049,000''.

In the statement of the managers of the committee of conference accompanying H.J. Res. 2 (Public Law 108–7; House Report 108–10), in the matter in title III of Division G, relating to the Fund for the Improvement of Postsecondary Education under the heading ''Higher Education''—

(1) the second reference to the provision specifying $1,000,000 for the University of Massachusetts-Boston to purchase research equipment and technology infrastructure shall be deleted;

(2) the provision specifying $500,000 for Harford County Public Schools, Bel Air, MD, for support of a math and science magnet school program at Aberdeen High School shall be deleted and a provision shall be added that reads: ''American Academy of Liberal Education, Washington, D.C., to develop projects and survey best practices in the study of American democracy and principles of free government at colleges and universities, $100,000'';

(3) the provision specifying $100,000 for Slippery Rock University, Slippery Rock, PA, for Knowledge Pointe at Cranberry Woods, as part of an initiative to provide life-long educational services to Pittsburgh's regional industry and community residents shall be deemed to read as follows: ''Regional Learning Alliance, Marshall Township in Allegheny County, PA, as part of an initiative to provide life-long educational services to Pittsburgh's regional industry and community residents, $200,000'';

(4) the provision specifying $150,000 for Beresford Community Education in Beresford, SD to expand community education programs shall be deleted;

(5) the provision specifying $100,000 for Slippery Rock University, Slippery Rock, Pennsylvania, for the North Hill Educational Alliance shall be deleted; and

(6) the provision specifying $250,000 to the National Aviary Conservation Education Technology Integration in Pittsburgh shall be deemed to read as follows: ''National Aviary Conservation Education Technology Integration in Pittsburgh, for the Remote Audio-Visual Engagement Network (RAVEN) project, $250,000''.

DEPARTMENT OF EDUCATION

GENERAL PROVISION

Section 1707(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(3)) is amended by striking ''17'' and inserting ''19''.

RELATED AGENCIES

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

The matter under the heading ''Corporation for National and Community Service, Domestic Volunteer Service Programs, Operating Expenses'', in Public Law 108–7 is amended by inserting ''for activities authorized by section 122 of Part C of Title I and Part E of Title II of the Domestic Volunteer Service Act of 1973'' after ''in this Act''.

CHAPTER 6

SUBCOMMITTEE ON LEGISLATIVE BRANCH

CAPITOL POLICE

TRANSFER OF LIBRARY OF CONGRESS POLICE. Section 1015(a)(3) of the Legislative Branch Appropriations Act, 2003, is amended by inserting '', or, if earlier, on February 20, 2005'' before the period.

CHAPTER 7

SUBCOMMITTEE ON TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT

DEPARTMENT OF TRANSPORTATION

(a) Section 336 of Division I of Public Law 108–7 is amended by striking ''transportation management'' and inserting in lieu thereof ''urbanized''.

(b) Section 321 of Division I of Public Law 108–7 is amended by—

(1) inserting ''or underneath'' in subsection (q)(2) before ''the Class B airspace'';

(2) deleting ''has sufficient capacity and'' in subsection (q)(3) after ''Title 49''; and

(3) inserting ''passenger'' in subsection (q)(3) before ''delays''.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 701. It is the sense of the Senate that—

(1) the asset acquisition of Trans World Airlines by American Airlines was a positive action that should be commended;

(2) although the acquisition was a positive action, the combination of the 2 airlines has resulted in a difficult seniority integration for the majority of the employee groups involved;

(3) airline layoffs from American Airlines should be conducted in a manner that maintains the maximum level of fairness and equitable treatment for all parties involved; and

(4) American Airlines should encourage its employee groups to integrate all employees in a manner that is fair and equitable for all parties involved.

SEC. 702. No provision of this Act may be construed as altering or amending the force or effect of any of the following provisions of law as currently applied:

(1) Sections 2631 and 2631a of title 10, United States Code.

(2) Sections 901(b) and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b), 1241f).

(3) Public Resolution Numbered 17, Seventy-third Congress (48 Stat. 500).

(4) Any other similar provision of law requiring the use of privately owned United States flag commercial vessels for certain transportation purposes of the United States.

CHAPTER 8

SUBCOMMITTEE ON VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

The referenced statements of managers under the heading ''Community development fund'' in title II of Public Law 108–7 under grant No. 26 under the Neighborhoods Initiative program is amended by striking ''Glendale, Montana'' and inserting in lieu thereof ''Gendive, Montana''.

The referenced statements of managers under the heading ''Community development fund'' in title II of Public Law 106–377 is amended by striking ''$200,000 for Light of Life Ministries in Allegheny County, Pennsylvania for infrastructure improvements at the Serenity Village homeless programs'' and inserting in lieu thereof ''$200,000 for Light of Life Ministries in Allegheny County, Pennsylvania for renovation and infrastructure improvements for a homeless service center on Penn Avenue in Pittsburgh''.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

Under the heading ''Salaries and expenses'' in title II of Public Law 108–7, strike out in the eighth proviso ''and all other statutes and regulations related to the obligation and expenditure of funds made available in this, or any other Act'' and strike out in the eleventh proviso ''and all other statutes and regulations governing the obligation and expenditure of funds made available in this or any other Act''.

INDEPENDENT AGENCIES

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

To liquidate obligations previously incurred by the Corporation for National and Community Service (''Corporation''), up to $64,000,000 is provided to the National Service Trust: Provided, That the Corporation may use these funds only to liquidate the deficiency that it has already incurred and that these funds are not available for obligation, or to liquidate obligations, for any other purpose whatsoever: Provided further, That the Corporation may not use these funds unless and until it reports these overobligations to the Congress and the President in accordance with the requirements of the Antideficiency Act and the guidance of the Office of Management and Budget in OMB Circular A–11 (2002): Provided further, That the second proviso under the heading ''Corporation for National and Community Service'' in Public Law 108–7 is deemed to be amended by inserting after ''section 501(a)(4)'' the following: ''with not less than $2,500,000 for the Office of the Chief Financial Officer to enact financial reform in the Corporation, without regard to the provisions of section 501(a)(4)(B) of the Act''.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

The first sentence under this heading in Public Law 108–7 is amended by striking ''$320,000,000'' and inserting in lieu thereof: ''$330,000,000''.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Within 30 days of enactment of this Act, the Administrator of the Environmental Protection Agency shall adjust each ''maximum annual fee payable'' pursuant to 7 U.S.C. 136a–1(i)(5) (D) and (E) in a manner such that Maintenance Fee collections made to reach the level authorized in division K of Public Law 108–7 shall be established in the same proportion as those Maintenance Fee collections authorized in Public Law 107–73.

GENERAL PROVISIONS, THIS TITLE

SEC. 201. The Secretary of the Army, acting through the Chief of Engineers, shall use $3,300,000 of funds available under the Construction, General appropriation, Corps of Engineers, Civil, to continue dam safety and seepage stability correction measures for the Waterbury Dam, Vermont project.

TITLE III—COLUMBIA ORBITER MEMORIAL ACT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Columbia Orbiter Memorial Act''.

SEC. 302. CONSTRUCTION OF MEMORIAL TO CREW OF COLUMBIA ORBITER AT ARLINGTON NATIONAL CEMETERY.

(a) CONSTRUCTION REQUIRED.—The Secretary of the Army shall, in consultation with the Administrator of the National Aeronautics and Space Administration, construct at an appropriate place in Arlington National Cemetery, Virginia, a memorial marker honoring the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS–107.

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by title II of the Department of Defense Appropriations Act, 2003 (Public Law 107–248) under the heading ''OPERATION AND MAINTENANCE,

ARMY'', $500,000 shall be available for the construction of the memorial marker required by subsection (a).

SEC. 303. DONATIONS FOR MEMORIAL FOR CREW OF COLUMBIA ORBITER.

(a) AUTHORITY TO ACCEPT DONATIONS.—The Administrator of the National Aeronautics and Space Administration may accept gifts and donations of services, money, and property (including personal, tangible, or intangible property) for the purpose of an appropriate memorial or monument to the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS–107, whether such memorial or monument is constructed by the Administrator or is the memorial marker required by section 302.

(b) TRANSFER.—(1) The Administrator may transfer to the Secretary of the Army any services, money, or property accepted by the Administrator under subsection (a) for the purpose of the construction of the memorial marker required by section 302.

(2) Any moneys transferred to the Secretary under paragraph (1) shall be merged with amounts in the account referred to in subsection (b) of section 302, and shall be available for the purpose referred to in that subsection.

(c) EXPIRATION OF AUTHORITY.—The authority of the Administrator to accept gifts and donations under subsection (a) shall expire five years after the date of the enactment of this Act.

TITLE IV—AVIATION INDUSTRY RELIEF PROVISIONS

SEC. 401. TEMPORARY SUSPENSION OF SECURITY SERVICE FEES.

The Undersecretary of Homeland Security for Border and Transportation Security shall not impose the fees authorized by section 44940(a) of title 49, United States Code, during the period beginning on April 1, 2003, and ending on September 30, 2003.

SEC. 402. REIMBURSEMENT OF AIRLINES FOR CERTAIN INCREASED SECURITY COSTS.

There are appropriated to the Secretary of Transportation for fiscal year 2003 $1,000,000,000, such sums to remain available until expended, $600,000,000 of which shall be used to reimburse each air carrier engaged in air transportation and intrastate air transportation of passengers for compensation (as such terms are used in subtitle VII of title 49, United States Code) for the amount by which the costs incurred by such air carrier during calendar year 2002 in complying with aviation security requirements imposed by Federal law, including requirements imposed by the Transportation Security Administration, exceeded the aviation security costs the carrier would have incurred during that year in the absence of those requirements, and $400,000,000 of which shall be used to reimburse each such air carrier for the amount by which the costs incurred by the air carrier during calendar year 2003 exceeded the aviation security costs the carrier would have incurred during that year in the absence of those requirements, such costs to be determined by studies conducted by the air carriers in accordance with guidelines to be developed, within 30 days after the date of enactment of this Act, by the Undersecretary of Homeland Security for Border and Transportation Security in consultation with the Secretary of Transportation, describing in detail, by function, amount, and class (including operating expenses, capital expenditures, and one time and recurring costs), the costs for which reimbursement is sought: Provided, That the Inspector General of the Department of Transportation certifies the guidelines as being appropriate to determine such costs: Provided further, That the Inspector General certifies as complete and accurate all claims submitted by an air carrier for reimbursement under this section, and: Provided further, That if the sum of the costs to be reimbursed to all such air carriers for 2002 exceeds $600,000,000, the amount of the reimbursement to each such carrier shall be an amount that bears the same ratio to $600,000,000 as the reimbursable cost of that carrier bears to the sum of the reimbursable costs of all such carriers for that year, and if the sum of the costs to be reimbursed to all such air carriers for 2003 exceeds $400,000,000, the amount of the reimbursement to each such carrier shall be an amount that bears the same ratio to $400,000,000 as the reimbursable cost of that carrier bears to the sum of the reimbursable costs of all such carriers for that year.

SEC. 403. ADDITIONAL AMOUNT FOR COCKPIT DOOR REIMBURSEMENT.

In addition to amounts appropriated under the preceding section, there are appropriated to the Secretary of Transportation $100,000,000, to remain available until expended, to compensate air carriers for the direct costs associated with the strengthening of flight deck doors and locks on aircraft required by section 104(a)(1)(B) of the Aviation and Transportation Security Act.

SEC. 404. AIRPORT SECURITY EXPENSES AND INVESTMENT.

There are appropriated to the Secretary of Transportation $375,000,000, to remain available until expended, to be made available, after consultation with the Secretary of Homeland Security, to airports for operating expenses and capital investment related to improvements in aviation security: Provided, That the amounts made available for capital expenses shall be made available to airport sponsors, as such term is used in chapter 471 of title 49, United States Code, on such terms and conditions, and pursuant to such applications, similar to the terms, conditions, and applications applicable to amounts made available under that chapter.

SEC. 405. EXTENSION OF WAR RISK INSURANCE AUTHORITY.

(a) EXTENSION OF POLICIES.—Section 44302(f)(1) of title 49, United States Code, is amended by striking ''2003,'' each place it appears and inserting ''2004,''.

(b) EXTENSION OF LIABILITY LIMITATION.—Section 44303(b) of such title is amended by striking ''2003,'' and inserting ''2004,''.

(c) EXTENSION OF AUTHORITY.—Section 44310 of such title is amended by striking ''2003.'' and inserting ''2004.''.

SEC. 406. LIMIT ON EXECUTIVE COMPENSATION REQUIRED FOR EXTENDED WAR RISK INSURANCE COVERAGE.

(a) IN GENERAL.—Notwithstanding any provision of law to the contrary, the Secretary of Transportation may not provide insurance or reinsurance under chapter 443 of title 49, United States Code, after August 31, 2003, and before January 1, 2005, to an air carrier operating aircraft for the transportation of passengers for compensation unless that air carrier executes a contract with the Secretary under which the air carrier agrees that—

(1) it will not provide total compensation during the 12-month period beginning on April 1, 2003, or the subsequent 12-month period, to an executive officer in an amount equal to more than the annual salary paid to that officer during the air carrier's fiscal year 2002; and

(2) if the air carrier violates its agreement under paragraph (1), it will pay to the Secretary of the Treasury, within 60 days after the date on which the violation occurs, an amount, determined by the Secretary of Transportation, equal to the difference between—

(A) the amount it paid for insurance provided or reinsured under chapter 443 of such title for the 12-month period in which the violation occurred; and

(B) the amount it would have paid for the same or similar insurance coverage for that period if the insurance had not been provided or reinsured under that chapter.

(b) EXECUTIVE OFFICERS EMPLOYED FOR LESS THAN 12 MONTHS IN FISCAL YEAR 2002 OR WHOSE EMPLOYMENT COMMENCED AFTER FISCAL YEAR 2002.—For the purpose of applying subsection (a)(1) to an executive officer—

(1) who was employed by an air carrier for less than 12 months during the air carrier's fiscal year 2002, or whose employment began after the last day of the last fiscal year of such air carrier ending before the date of enactment of this Act—

(A) the salary paid to that executive officer in that air carrier's fiscal year 2002, or in the next fiscal year of that air carrier (if such next fiscal year began before the date of enactment of this Act), respectively, shall be determined as an annual rate of pay;

(B) that annual rate of pay shall be treated as if it were the annual salary paid to that executive officer during that air carrier's fiscal year 2002; and

(C) that executive officer shall be deemed to have been employed during that fiscal year; and

(2) whose employment begins after the date of enactment of this Act—

(A) the annual salary at which that executive officer is first employed by an air carrier may not exceed the maximum salary paid to any executive officer by that air carrier during that air carrier's fiscal year 2002 with the same or similar responsibilities;

(B) that salary shall be treated as if it were the annual salary paid to the executive officer during that air carrier's fiscal year 2002; and

(C) the executive officer shall be deemed to have been employed by that air carrier during that air carrier's fiscal year 2002.

(c) AUDIT AUTHORITY.—The Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to implement subsection (a). The Comptroller General shall transmit a report of any investigation conducted under this subsection to the Senate Committee on Appropriations, the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Appropriations, and the House of Representatives Committee on Transportation and Infrastructure, together with a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(d) DEFINITIONS.—In this section:

(1) EXECUTIVE OFFICER.—The term ''executive officer'' means a named executive officer (as that term is used in section 402(a)(3) of Regulation S-K promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. 229.402(a)(3))).

(2) TOTAL COMPENSATION.—The term ''total compensation'' has the meaning given that term by section 104(b) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note), but does not include amounts paid, under a contract, retirement plan, or other legally binding arrangement in effect on March 26, 2003, to an executive officer on account of that executive's retirement or termination of employment.

SEC. 407. GAO REPORT ON AIRLINES ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION.

(a) FINDING.—The Congress finds that the United States government has by law provided substantial financial assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, the Congress needs more frequent information and independently verified information about the financial condition of these airlines.

(b) SEMIANNUAL REPORTS.—The Comptroller General shall prepare a semiannual report to the Congress—

(1) analyzing measures being taken by air carriers engaged in air transportation and intrastate air transportation (as such terms are used in subtitle VII of title 49, United States Code) to reduce costs and to improve their earnings and profits and balance sheets; and

(2) stating—

(A) the total compensation (as defined in section 104(b) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note)) paid by the air carrier to each officer or employee of that air carrier to whom that section applies for the period to which the report relates; and

(B) the terms and value (determined on the basis of the closing price of the stock on the last business day of the period to which the report relates) of any stock options awarded to such officer during that period.

(c) GAO AUTHORITY.—In order to compile the reports required by subsection (b), the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the reports. The Comptroller General shall submit with each such report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(d) REPORTS TO CONGRESS.—The Comptroller General shall transmit the compilation of reports required by subsection (c) to Senate Committee on Appropriations, the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Appropriations, and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 408. AIR CARRIERS TO SUBMIT OPERATIONAL EXPENSE REDUCTION PLANS.

(a) IN GENERAL.—Each air carrier that receives financial assistance under this Act shall transmit a plan to the Comptroller General within 90 days after the date of enactment of this Act that, if implemented, will reduce that air carrier's annual operating expenses by an amount equal to the greater of—

(1) 10 percent of that carrier's annual operating expenses determined as of June 15, 2002; or

(2) the amount of financial assistance that air carrier has received or will receive under this Act.

(b) OPERATING EXPENSES.—In determining annual operating expenses for purposes of this section, an air carrier shall compute operating expenses attributable to fuel on the basis of the average price of such fuel for June 15, 2002.

SEC. 409. ADDITIONAL TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION FOR DISPLACED AIRLINE RELATED WORKERS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''eligible individual'' means an individual whose eligibility for temporary extended unemployment compensation under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21), as amended by Public Law 108–1 (117 Stat. 3), is or would be based on the exhaustion of regular compensation, entitlement to which was based in whole or in part on qualifying employment performed during such individual's base period;

(2) the term ''qualifying employment'', with respect to an eligible individual, means employment—

(A) with an air carrier, employment at a facility at an airport, that involves the provision of transportation to or from an airport, or with an upstream producer or supplier for an air carrier; and

(B) as determined by the Secretary, separation from which was due, in whole or in part, to—

(i) reductions in service by an air carrier as a result of a terrorist action or security measure;

(ii) a closure of an airport in the United States as a result of a terrorist action or security measure; or

(iii) a military conflict with Iraq that has been authorized by Congress;

(3) the term ''air carrier'' means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code;

(4) the term ''upstream producer'' means a firm that performs additional, value-added, production processes, including firms that perform final assembly, finishing, or packaging of articles, for another firm;

(5) the term ''supplier'' means a firm that produces component parts for, or articles and contract services considered to be a part of the production process or services for, another firm;

(6) the term ''Secretary'' means the Secretary of Labor; and

(7) the term ''terrorist action or security measure'' means a terrorist attack on the United States on September 11, 2001, or a security measure taken in response to such attack.

(b) ADDITIONAL TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION FOR ELIGIBLE EMPLOYEES.—In the case of an eligible employee, the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21), as amended by Public Law 108–1 (117 Stat. 3), shall be applied as if it had been amended in accordance with subsection (c).

(c) MODIFICATIONS.—

(1) IN GENERAL.—For purposes of subsection (b), the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21), as amended by Public Law 108–1 (117 Stat. 3), shall be treated as if it had been amended as provided in this subsection.

(2) PROGRAM EXTENSION.—Deem section 208 of the Temporary Extended Unemployment Compensation Act of 2002, as amended by Public Law 108–1 (117 Stat. 3), to be amended to read as follows:

''SEC. 208. APPLICABILITY.

''(a) IN GENERAL.—Subject to subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

''(1) beginning after the date on which such agreement is entered into; and

''(2) ending before December 29, 2003.

''(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

''(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has amounts remaining in an account established under section 203 as of December 28, 2003, temporary extended unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such date for which the individual meets the eligibility requirements of this title, including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section.

''(2) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after December 26, 2004.''.

(3) ADDITIONAL WEEKS OF BENEFITS.—Deem section 203 of the Temporary Extended Unemployment Compensation Act of 2002, as amended by Public Law 108–1 (117 Stat. 3), to be amended—

(A) in subsection (b)(1)—

(i) in subparagraph (A), by striking ''50'' and inserting ''150''; and

(ii) by striking ''13'' and inserting ''39''; and

(B) in subsection (c)(1), by inserting ''⅓ of'' after ''equal to''.

(4) EFFECTIVE DATE OF MODIFICATIONS DESCRIBED IN PARAGRAPH (3).—

(A) IN GENERAL.—The amendments described in paragraph (3)—

(i) shall be deemed to have taken effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002; but

(ii) shall be treated as applying only with respect to weeks of unemployment beginning on or after the date of enactment this Act, subject to subparagraph (B).

(B) SPECIAL RULES.—In the case of an eligible individual for whom a temporary extended unemployment account was established before the date of enactment of this Act, the Temporary Extended Unemployment Compensation Act of 2002 (as amended by this section) shall be applied subject to the following:

(i) Any amounts deposited in the individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') before the date of enactment of this Act shall be treated as amounts deposited by reason of section 203(b) of such Act (commonly known as ''TEUC amounts''), as deemed to have been amended by paragraph (3)(A).

(ii) For purposes of determining whether the individual is eligible for any TEUC–X amounts under such Act, as deemed to be amended by this subsection—

(I) any determination made under section 203(c) of such Act before the application of the amendment described in paragraph (3)(B) shall be disregarded; and

(II) any such determination shall instead be made by applying section 203(c) of such Act, as deemed to be amended by paragraph (3)(B)—

(aa) as of the time that all amounts established in such account in accordance with section 203(b) of such Act (as deemed to be amended under this subsection, and including any amounts described in clause (i)) are in fact exhausted, except that

(bb) if such individual's account was both augmented by and exhausted of all TEUC–X amounts before the date of enactment of this Act, such determination shall be made as if exhaustion (as described in section 203(c)(1) of such Act) had not occurred until such date of enactment.

TITLE V—PANEL TO REVIEW SEXUAL MISCONDUCT ALLEGATIONS AT UNITED STATES AIR FORCE ACADEMY

SEC. 501. ESTABLISHMENT OF PANEL.

(a) ESTABLISHMENT.—There is established a panel to review allegations of sexual misconduct allegations at the United States Air Force Academy.

(b) COMPOSITION.—The panel shall be composed of seven members, appointed by the Secretary of Defense from among private United States citizens who have knowledge or expertise in matters relating to sexual assault, rape, and the United States military academies.

(c) CHAIRMAN.—The Secretary of Defense shall, in consultation with the Chairmen of the Committees on Armed Services of the Senate and House of Representatives, select the Chairman of the panel from among its members under subsection (b).

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the panel. Any vacancy in the panel shall be filled in the same manner as the original appointment.

(e) MEETINGS.—The panel shall meet at the call of the Chairman.

(f) INITIAL ORGANIZATION REQUIREMENTS.—(1) All original appointments to the panel shall be made not later than May 1, 2003.

(2) The Chairman shall convene the first meeting of the panel not later than May 2, 2003.

SEC. 502. DUTIES OF PANEL.

(a) IN GENERAL.—The panel established under section 501(a) shall carry out a study in order to determine responsibility and accountability for the establishment or maintenance of an atmosphere at the United States Air Force Academy that was conducive to sexual misconduct (including sexual assaults and rape) at the United States Air Force Academy.

(b) REVIEW.—In carrying out the study required by subsection (a), the panel shall—

(1) the actions taken by United States Air Force academy personnel and other Department of the Air Force officials in response to allegations of sexual assaults at the United States Air Force Academy;

(2) review directives issued by the United States Air Force pertaining to sexual misconduct at the United States Air Force Academy;

(3) review the effectiveness of the process, procedures, and policies used at the United States Air Force Academy to respond to allegations of sexual misconduct;

(4) review the relationship between—

(A) the command climate for women at the United States Air Force Academy, including factors that may have produced a fear of retribution for reporting sexual misconduct; and

(B) the circumstances that resulted in sexual misconduct at the Academy; and

(5) review, evaluate, and assess such other matters and materials as the panel considers appropriate for the study.

(c) REPORT.—(1) Not later than 90 days after its first meeting under section 501(f)(2), the panel shall submit a report on the study required by subsection (a) to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives.

(2) The report shall include—

(A) the findings and conclusions of the panel as a result of the study; and

(B) any recommendations for legislative or administrative action that the panel considers appropriate in light of the study.

SEC. 503. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.—(1) Members of the panel established under section 501(a) shall serve without pay by reason of their work on the panel.

(2) Section 1342 of title 31, United States Code, shall not apply to the acceptance of services of a member of the panel under this title.

(b) TRAVEL EXPENSES.—The members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel.

TITLE VI—GENERAL PROVISIONS

SEC. 601. Section 624 of division B of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7), is amended by inserting before the period at the end: ''and, effective as of October 1, 2002, by inserting 'and subject to the provisions of Public Law 108–8,' after 'until expended,' ''.

SEC. 602. EXTENSION OF ENERGY SAVINGS PERFORMANCE CONTRACTING AUTHORITY. Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking ''October 1, 2003'' and inserting ''December 31, 2004''.

SEC. 603. None of the funds in this Act may be obligated or expended to pay for transportation described in section 41106 of title 49, United States Code, to be performed by any air carrier that is not effectively controlled by citizens of the United States.

SEC. 604. Section 626 of title VI of division B of Public Law 108–7 is amended by striking ''previously''.

SEC. 605. Section 7304 of Public Law 107–110 is amended by striking ''such as'' and inserting in lieu thereof ''operated by''.

SEC. 606. Section 1605 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(h) CLAIMS FOR MONEY DAMAGES FOR DEATH OR PERSONAL INJURY.—(1) Any United States citizen who dies or suffers injury caused by a foreign state's act of torture, extrajudicial killing, aircraft sabotage, or hostage taking committed on or after November 1, 1979, and any member of the immediate family of such citizen, shall have a claim for money damages against such foreign state, as authorized by subsection (a)(7), for death or personal injury (including economic damages, solatium, pain and suffering).

''(2) A claim under paragraph (1) shall not be barred or precluded by the Algiers Accords.''.

SEC. 607. Section 127b(b) of title 10, United States Code, is amended by striking ''$200,000'' and inserting ''$5,000,000''.

This Act may be cited as the ''Supplemental Appropriations Act to Support Department of Defense Operations in Iraq for Fiscal Year 2003''.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 108, 109, 110, 111, 112, 113, 114, and 115. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Raul David Bejarano, of California, to be United States Marshal for the Southern District of California for the term of four years.

Allen Garber, Minnesota, to be United States Marshal for the District of Minnesota for the term of four years.

SECURITIES INVESTOR PROTECTION CORPORATION

Noe Hinojosa, Jr., of Texas, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2003.

Noe Hinojosa, Jr., of Texas, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2006.

Thomas Waters Grant of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2005.

William Robert Timken, Jr., of Ohio, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2003.

William Robert Timken, Jr., of Ohio, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2006.

NATIONAL CONSUMER COOPERATIVE BANK

Alfred Plamann, of California, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

LEGISLATIVE SESSION

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

HONORING MARY JANE JENKINS OGILVIE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 110, which was submitted earlier today by Senator KYL.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 110) honoring Mary Jane Jenkins Ogilvie, wife of former Senate Chaplain, Reverend Dr. Lloyd John Ogilvie.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. I would like to comment, Mr. President, about Mary Jane Ogilvie. Many public men are described in their own right for their own accomplishments, and then their wives are referred to casually.

Senator Alan Simpson's wife, who took my wife under her wing when we first came here, described it this way. She said: ''We are just LWOs, which means 'lovely wives of.' ''

Mary Jane Ogilvie was indeed the lovely wife of our Chaplain, Lloyd Ogilvie, but she was far, far more than an appendage to her husband. She had her own contribution to make to this body and to all of the Members in it.

Many wives of important men do not want to have anything to do with their husbands' careers and create areas of their own. They do not have an interest in what their husband does. Mary Jane Ogilvie was an incredibly important part of Lloyd Ogilvie's entire career.

The two of them were a team, inseparable. Her faith was as strong as his. Her dedication to the ministry and to the Gospel, as they understood it, was as deep as his. And her friendships forged here in the Senate were as strong as his. She was, as I say, an integral part of the ministry he performed here.

When she became too ill to carry on her portion of that ministry, he was unable to carry on his, which was very appropriate, in my view, because they were a team. He had his priorities straight, and he realized that, as important as his work here was, his duty to his wife was even greater.

When it became necessary for her, as she sought to find treatment for her condition, to move to California, there was never a doubt in Lloyd Ogilvie's mind that he would move with her. They were a team.

Some would have said: Well, she is hospitalized. I have a career. I will stay here. I will call her on weekends or get out there when I can, but I will let her go forward on her own. Lloyd Ogilvie is not that kind of a man, and their marriage was not that kind of a marriage. When she needed him, she had him, which is a manifestation of the fact that when he needed her, he had her.

So this resolution is but a small token of the Senate's gratitude for the contribution that Mary Jane Ogilvie made to the lives of all of us.

My wife and I were privileged enough to become friends of this team. We went to dinner together. We had conversations about our families. We had conversations about religion. We had

conversations about the Senate and its spiritual health. As the leader of the Senate Prayer Breakfast during the time that Lloyd Ogilvie was our Chaplain, I got to know both of them extremely well.

It is with great sorrow that we note her passage. But as I have said before of others to whom we have had to say good-bye in this fashion, we do not mourn for Mary Jane. We know where Mary Jane is. We know that all is well with her. Our sense of loss is for ourselves and the fact that we have been deprived now of her company, her spirit, and the joy of her life.

I join with Senator KYL and thank Senator KYL for this resolution in paying tribute to a woman whose contribution to the Senate is not reflected in the payroll or any official record but is engraved in the hearts of all of us.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table; and that any statements relating to this matter be printed in the RECORD.

Mr. REID. Reserving the right to object, Mr. President, I would like to extend, through the Chair, to my friend from Utah the appreciation of the whole Senate for the content of the remarks of the Senator from Utah and the manner in which they were delivered.

Those of us who know Lloyd Ogilvie certainly have great respect for him. I told him personally. My first knowledge of his presence was when I attended the funeral of the late departed Senator from Georgia, Mr. Coverdell. He did such a remarkable job at that funeral. Even though I had seen him here and listened to him give prayers many times, that was the first time I had really felt his presence.

I did not know his wife Mary Jane well. I had met her, but that was all. It was good to hear from the Senator from Utah about his knowledge of Mary Jane Ogilvie, who Reverend Ogilvie talked to me about many times, as every morning we were here together.

So I think the remarks of the Senator from Utah were timely. And I, on behalf of the whole Senate, extend my appreciation to the Senator from Utah.

Mr. BENNETT. Mr. President, I thank the Senator from Nevada for his kind comments.

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

The resolution (S. Res. 110) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 110

Whereas Mary Jane Jenkins Ogilvie, a friend to the United States Senate who succumbed April 1, 2003, to infirmities that she had battled courageously over many years was—

(1) petite in size, but grand in character, a woman with strong independent status, while still being steadfastly supportive of her husband during his chaplaincy;

(2) an active, vibrant, frank, honest, vigorous, and warm friend, especially to many Senate spouses, during her eight years here;

(3) a loving wife and mother who, though she missed her family in California, was a vital partner in her husband's service to the Senate, near the end of which she returned home to California;

(4) a devout woman, a fighter to the end, an individual impressive for her style, her spirit, and her strong faith; and

(5) the center of her family, cherished by her husband Lloyd, her children Heather, Scott, and Andrew, and her grandchildren Erin, Airley, Bonnie, and Scotter: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Mary Jane Jenkins Ogilvie;

(2) recognizes her contributions to the Senate family;

(3) admires her courage and loyalty; and

(4) expresses gratitude that she is now with the Lord.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of Mary Jane Jenkins Ogilvie.

ORDERS FOR WEDNESDAY, APRIL 9, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Wednesday, April 9. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business until 11:30 a.m., with the first 30 minutes equally divided between Senator HUTCHISON and the minority leader or their designees and the remaining time, until 11:30, equally divided between the two leaders or their designees; provided further that during the Republican-controlled time, Senator DOLE be recognized for up to 15 minutes and Senator KYL be recognized for up to 15 minutes.

Finally, I ask unanimous consent that at 11:30 a.m., the Senate return to consideration of S. 476, the CARE Act, and there then be 30 minutes equally divided for general debate remaining, with all other provisions of the consent remaining in order.

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

PROGRAM

Mr. BENNETT. For the information of all Senators, the Senate will be in a period of morning business tomorrow until 11:30 a.m. Following morning business, the Senate will resume debate on the CARE Act. When the Senate returns to the bill, Senator NICKLES will offer his amendment related to land sales. The Senate will vote on both the Nickles amendment and passage of the bill at approximately 12:30 tomorrow.

Following passage of the CARE Act, the Senate may resume consideration of the nomination of Priscilla Owen. In addition to the Owen nomination, the Senate may consider the PROTECT Act conference report, if available, as well as the POW resolution. Therefore, additional votes are expected.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BENNETT. 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 6:44 p.m., adjourned until Wednesday, April 9, 2003, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 8, 2003:

SECURITIES INVESTOR PROTECTION CORPORATION

NOE HINOJOSA, JR., OF TEXAS TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION.

THOMAS WATERS GRANT, OF NEW YORK, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION.

WILLIAM ROBERT TIMKEN, JR., OF OHIO, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION.

NATIONAL CONSUMER COOPERATIVE BANK

ALFRED PLAMANN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF THREE YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

RAUL DAVID BEJARANO, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

ALLEN GARBEN, OF MINNESOTA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF FOUR YEARS.