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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWBACK, a Senator from the State of Kansas.

### PRAYER

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

Let us pray:

Eternal Father, the fountain of all blessings, with grateful hearts we enter Your courts today. We thank You for ordering our steps and directing our paths. Lord, we have lived long enough to know that we can't escape Your presence or Your love. We have sought fulfillment on destructive avenues, but Your love has always found us. Thank You for showing us the way to abundant living. Use Your Senators today to make the world a better place. Provide a shield for our military and comfort those who mourn. Lord, give wisdom to the leaders of our world. We pray this in Your strong name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable SAM BROWBACK 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.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS.)

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, September 24, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWBACK, a

Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. BROWBACK thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will conduct a period of morning business to allow Senators to speak. Following morning business, at approximately 10:35, the Senate will begin consideration of the DC appropriations bill. I know there is one issue that will require some debate and a vote, but it is my hope we can complete this bill in a relatively short period of time. Typically, this is an appropriations measure that has not consumed a great deal of floor time. Senator DEWINE will be ready at a little after 10:30 this morning, and we will monitor progress on this legislation, with the hope of finishing soon.

I also add that we hope again to be receiving from the House some of the completed appropriations conference reports. Once those reports are received, I will be speaking to the Democratic leader about scheduling those measures for floor action. Again, I hope we can move quickly on those items and get them to the President's desk for his signature as soon as possible.

Finally, I also want to remind Members that we will continue to schedule votes on available nominations throughout the week. We have eight judicial nominations pending on the Executive Calendar. Four of these nominations should be ready for Senate action, and we will schedule them over

the course of the next day or so. As always, we will keep Members apprised of the voting schedule and as to when the first vote is ordered today.

Some people have asked about next week. I have already told people that we will be voting on Monday of next week. I mention that because a number of people have asked me.

### IRAQ RECONSTRUCTION REQUEST

Mr. FRIST. Mr. President, very briefly, I want to make a comment on the President's comments yesterday before the United Nations.

The President of the United States and leaders from across the globe gathered yesterday at the United Nations headquarters in Manhattan to receive the President's address. It is worth pausing to consider just where that was. The address yesterday was in New York City, in the heart of Manhattan, a few dozen blocks from Ground Zero. The world's leaders were able to safely assemble and freely debate their proposals in a city that had borne the tragedy of September 11. Many were able to exercise more freedom yesterday in New York than is allowed in their own countries.

President Bush, in his address, boldly challenged the assembly to support the cause of liberty in Iraq. His case was powerful, and his case was powerful in part because the cause of freedom itself is so powerful. Some of my colleagues have basically questioned again and again the overall war on terror. There is this magnification of each setback along the way, and many people dismiss the many advances that are being made each and every day. There seems to be this attempt to discredit the war on terror.

Some people say we have acted unilaterally. We know that is false. The truth is we were joined by 49 countries to depose Saddam Hussein and remove his regime. Now we hear increasingly that there was a lack of broad international support on the ground. That is

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



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not true. We know there are 31 nations that currently have troops deployed to Iraq. British troops are leading a multinational division, as are the Polish troops; and the President hopes to have at least one more international division helping to bring stability and security.

I think those people claiming the President has lost opportunities to make his case before the American people ignore the many times the President has spelled out his case and argued his case before the American people, to this Congress, and, indeed, multiple times now to the United Nations.

The President's opponents continually move the goalposts further and further, so that never is there enough detail or never are there enough specifics. But we have these claims. These claims are specious; they can be rebutted one by one.

I think the most powerful rebuttal is what the Iraqi people feel and what they say. Finally free to speak their own minds in a remarkable poll—the first of its kind—conducted in August and published by the Wall Street Journal, the Iraqi people themselves say loudly and clearly that they want us to stay and they want us to finish the job.

They are optimistic about the future. Seven out of ten say they expect that their country and their personal lives will be better 5 years from now. A third say much better. When asked about which country they would prefer as a political model out of five—Syria, Saudi Arabia, Iran, Egypt, or the United States—the most popular by far is the United States.

A majority of those who hold an opinion have a negative view of terror leader Osama bin Laden, and 74 percent of respondents want to see Saddam's henchmen punished. They want us—not Saddam or Osama bin Laden—to stay and help make their country whole.

The President has submitted a reconstruction plan to us with three clear objectives: to improve security by aggressively hunting down the terrorists; to expand international participation; and, finally, to help Iraq and Afghanistan become free, democratic, and stable nations.

This week, there are a number of hearings being conducted on both the Senate side and the House side to closely examine the President's proposal and to assess what is needed in a thoughtful way. These proceedings give us all the opportunity to ask questions and allow the administration to demonstrate how, when presented accurately, carefully, and clearly, we can achieve the objectives we have set out in the war on terror.

The debate, I hope, will continue to be dignified and serious, and in good faith I believe we can complete consideration of this emergency request by the end of next week. There are a lot of questions being asked. I encourage that. Ultimately, I am confident we will overwhelmingly support the President's request.

Mr. President, we will stand by the Iraqis. We will help them build a free, prosperous, and democratic country. Their future security—indeed, our security—and the security of civilized people everywhere depends on it.

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, for not to exceed 60 minutes, with the first 30 minutes under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee, and 30 minutes under the control of the Democratic leader or his designee.

Who seeks time?

The Senator from the great State of Texas.

Mrs. HUTCHISON. Mr. President, I am very pleased to call on the Senator from Mississippi for the first 10 minutes or so of my time, after which Senator MCCONNELL and then Senator SESSIONS will speak, all of them for up to 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized for up to 10 minutes.

#### SUPPORTING PRESIDENT BUSH AND OUR TROOPS

Mr. LOTT. Mr. President, I rise this morning in support of President Bush and our troops as this Nation continues to fight and win the war on terrorism in Afghanistan, Iraq, and around the globe.

We all know there are many great attributes in our United States of America. The people of America will rise to any occasion and will do what is necessary to protect freedom and opportunities for themselves and future generations. But there are some attributes on which sometimes we fail a little bit. One of those is we are a bit short sometimes in our memory, remembering back to what happened a few years ago. Sometimes our patience is a little short and we want immediate action. We will rise to any occasion, fight off any chaos, but then we want to deal with that situation and move on to something else.

I think that is a little of what we are seeing now as we listen to what I consider to be sometimes overheated rhetoric in questioning motives and resisting doing what is necessary to complete the job: a little patience, a little commitment to support freedom and democracy which we are trying to assist in Iraq and in the war on terrorism.

I said we seem to have forgotten. What happened to that era of the great Senator Vandenberg who stood up and

said, when it comes to foreign policy and war, partisanship ends at the shoreline, or something to that effect; that when we are dealing with an international problem, a conflict, a war, we are all together. Or even more recently, Lyndon Johnson aggressively supported the policies of President Eisenhower even though the leader of the Republicans at the time, Senator Taft, did not necessarily go along with it. But there was a bipartisan policy.

We have had that in our efforts to deal with these very difficult issues in Iraq and Afghanistan and homeland security, but it seems to be a little frayed right now. I think that is dangerous. I don't think it is good for America. I don't think it is good for what we are trying to achieve in fighting terrorism around the world. I don't think it is good for our troops.

Also, how short is our memory that we don't even remember the debate that was going on 1 year ago? We were discussing what to do about Iraq. The President was then going to the United Nations, and Secretary Powell had been to the United Nations. We were demanding more information. We were saying the President needed to go to the United Nations. And in each incident, he actually did what people were asking him to do. He did it. He went to the United Nations. He made the plea. Unfortunately, the United Nations didn't support what they said for 10 years in a dozen resolutions. They said: We can continue to negotiate; more inspections, more inspections. They would not step up and take action against this brutal tyrant, Saddam Hussein. But we did. America did. The President did. The Congress did. That is the point I am trying to make.

We had this debate. We knew what we were going into. We had looked at the intelligence. Was the intelligence perfect? No. Is it ever? It is always subjective. But we voted in this body 77 to 23 for the Iraq resolution. The House of Representatives voted almost 300—296—to 133. So we should not forget that vote. We should not forget the tremendous successes that have been enjoyed in terms of getting Saddam Hussein out of his position where he was spending money on palaces and allowing the people to suffer. He was murdering his own people and his neighbors. The infrastructure was just decaying beyond repair. We stepped up, and we did the same in Afghanistan. Our troops did a great job. Now are we going to say, It's your problem? Do we really expect the French to do the job? I don't think so. We are going to have to stay the course. We are going to have to do this job, and there is nobody else going to do it for us.

Oh, when the problem is in their immediate neighborhood, such as Bosnia or Kosovo, the Europeans say: You must lead; you have to come in. We supported that operation. Almost every action that was requested by President Clinton we supported, sometimes very reluctantly. I remember thinking: OK,

I support the bombing of the site in Afghanistan and the Sudan, because we thought they had chemical precursors. They didn't have them. But generally we came together and we provided leadership.

I saw a lady from England on TV this morning. Somebody asked her: Why do the Europeans and other people in the world not feel good about Americans right now? She said: It is because you are leaders; the world expects you to do the job. You do the job, and they are jealous of you. They want it, but they don't like it. It is human nature. We should not be too hard on them. I called on cooling the overheated rhetoric, and I want to remember that myself. We all overspeak and overstate our positions sometimes, but this is serious stuff with which we are dealing.

We called on the President a month ago: Mr. President, you have to step up and remind us what the vision is. He did. He went on TV. He rocked us back on our heels. He didn't ask for \$55 billion or \$65 billion to do the job as we thought he would. It was \$87 billion. Oh, yes, I was a little stunned. I don't like the deficits we are beginning to have. They were caused by the economy, 9/11, by the stock market problems—all kinds of situations. Still, that kind of money deserves some close examination.

I have been saying for several days now I want some answers. As representatives of the people, we should ask for answers. We deserve that. Exactly how is this money going to be broken out? Fifty-one billion dollars will go for the Iraqi campaign; \$11 billion for the Afghanistan campaign. It is not over. Are we are going to follow the example of generations of failure in Afghanistan or are we going to finish the job there? Of course, Noble Eagle, \$4 billion for homeland defense. The job goes on.

We have the list of where the money would go for reconstruction, and I have asked questions. Mr. President, there is \$5 billion for border enhancement. We need that because terrorists are coming into that country from all over the region to attack our coalition troops—the Americans, the British, the Poles, and the United Nations. We need to do more—basic electricity services, water and sanitation services, transportation, oil infrastructure.

Some people have said and I have said: Why don't the Iraqis do more on their own? They are going to have this oil coming in; they are going to have oil. They don't have it. They are broke. The infrastructure is more decimated than we ever dreamed. So I have questioned this money, but I have looked at it. I have thought about it. I listened very carefully to Ambassador Bremer yesterday, and I am convinced we have to do this. We have to have the money for our troops to do the job, for homeland security, for the reconstruction, and we have to do it now. It is a critical part of restoring security right now.

Leaders who are working with us are being intimidated, assaulted, and murdered. People from whom we had been getting information, who were helping us get people into the police and developing a force for the future, have withdrawn because they are a little concerned whether we will stay the course.

A lot of it is affected by the people's attitude. Right here, in the DC area, we have people without power. It weakens defenses. So we need to move in there quickly without going through an international organization, without trying to hassle through a loan arrangement, and provide the money so we can get the power back on, so we can get the water flowing.

There should be a process that others join in. Surely, countries of the United Nations, if it is worth anything, will help the Iraqis with their humanitarian needs as they continue to rebuild the infrastructure, as they try to develop their own government. Can the United Nations help with that? I hope so. I would like to give them a chance. I have not seen a lot yet, but they could.

After we get over this initial phase, I think the reconstruction money right now is every bit as important as the security money. It is a part of the security. We want to stop the assault on our troops. We want to begin to get the border under control. We have to do it and we have to do it now. A year from now it will be worse, maybe impossible.

So I came this morning to say I did not just leap to accept this amount of money. I did question how it could be done, but I am convinced if we do not do this, others will not follow suit. We are going to be going to other countries around the world that should be of assistance, Japan and countries such as Turkey that can hopefully provide some troops. We are going to ask them to ante up and kick in. But we are going to have to set an example. If we haggle over the details of this arrangement, they will not do their job. Then we are going to have to go to countries such as Russia, France, and Germany and say they have to forgive the debt that they have accumulated over a period of years because they were working with Saddam Hussein. We have to lead. We have to set an example, but it is tough.

I am going to support the whole package. We should do it quickly because if we do not, this moment could get away from us, and we could just walk away, leave that country and those people, that region, in chaos. In the end, if we do not stop it here, over there it will be here. So I urge my colleagues to stand up; let us do what we did last year. Let us do the right thing; let us finish the job.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who seeks time?

The Senator from the great State of Alabama.

Mr. SESSIONS. Mr. President, I express my appreciation for the com-

ments of the distinguished Senator from Mississippi, Mr. LOTT. He has been in this body a long time. He has wrestled with a lot of difficult issues. He knows that a lot of times, one just has to lead. They have to stand up and be counted and do the right thing. Once a nation commits itself, a Congress commits itself, there is no way we can turn around and waffle around next week based on some polling data or some comment from France or the U.N. That is not the way great nations behave.

I am proud of the United States of America. We have stood up. We have been counted. We have been on the side of right in the world. When should look at the wars and decimation that has occurred in Afghanistan. I was there a few weeks ago and they are rebuilding houses, using the same procedure of straw, mud, and brick covered with a mud stucco, that they have used for 2,000 years. They are building everywhere in Afghanistan after 20 years of oppression, war, and destruction, to a degree that few nations in the world have ever seen.

These are good and decent people, but Afghanistan was used as a base from which to attack the people of the United States of America. The Government of Afghanistan would not renounce that, would not say they were going to stop it, so the United States of America led. We have changed that Government. Anybody who has seen President Karzai, as I had the opportunity to do—and we have seen him on television—knows that he is a man of vision, talent, and decency. He loves the people of Afghanistan. He wants to see them succeed and do better.

The same is true of Iraq. I was there also, and I saw the oppression, the total devastation of a country that had every opportunity to be so much better. The people should have had a better life than they did, but Saddam Hussein took his people into war after war. He developed weapons of mass destruction. His megalomania led him to believe that he could be the next Nebuchadnezzar and take over the Middle East, then rule the world. Do not think his goals did not include developing the most dangerous weapons the world has ever known. He was prepared to do that, and he did that.

When he would not renounce these weapons or demonstrate that he did not have those weapons, so we moved against him and his sinister aims. We have liberated that country.

There have been a lot of complaints, and we debated this on the Senate floor many times. Those who complain have expressed concerns of all kinds. They said there were going to be problems in the Arab streets, the Arab nations would all turn against us, there would be street-to-street fighting in Iraq, we would lose thousands of soldiers, it would take months and months to succeed, the weapons of mass destruction would be used against our troops, we would bog down, there would be a humanitarian disaster, there would be

starvation and refugees everywhere by the millions, and we did not have enough troops to win the battle.

All of those things and more were raised. We talked about them. We debated them, and everybody had their say. We had open hearings and closed hearings. We read, we talked, we debated for months on end. There was not any secret about it. It was not any plan hatched in Texas. It was a plan voted on and debated in this body. We voted 77 to 23 to commit the United States of America to this action. Our military performed better than anybody could ever have imagined. Decisively and swiftly they defeated the Iraqi army, ousted them from power completely, put Saddam Hussein on the run, put an end to his evil sons, and have set about to establish a good government there.

I was in Mosul and was introduced to the city council. They have an Arab, a Turk, a Christian, and others on that council. They were men of ability and wisdom. We talked. They love the city of Mosul and the country of Iraq, and they want an open, free society where people with whatever beliefs can be able to function. They want to renounce and turn away from the past of Saddam Hussein. That is true all over this country, but it is difficult. It has proven to be a challenge for us, no doubt about it, to completely have peace and order in that large country.

I am pleased when I go and see soldiers from my State of Alabama, many of them National Guardsmen—I had dinner with them and talked with them. They believe they are making a difference in this area of the Middle East, where there has been so much disorder, so much oppression, so much killing, particularly in Iraq. Millions have died as a result of Saddam Hussein's wars and oppression at home. One can go there and see the graves. With the energy and dedication of these fine soldiers, I think we are going to be successful.

I am glad President Bush went to the United Nations. It is an organization that deserves our respect. It is entitled to courtesy, and President Bush has given it that. The Christian Science Monitor today said President Bush went to the U.N. yesterday with a message of both reconciliation and resolve, and that is exactly what he ought to do. Reconciliation, we want to talk to them and deal with their concerns, but we are resolved.

What then is our difficulty with the U.N.? I will share a couple of thoughts. The first is, the U.N. is incapable of taking decisive action. It has not done so in Iraq. It has never done so in its history. Why? Well, the Security Council requires unanimity in order to act. Russia is on the Security Council, as well as France, Germany, and others. Some rotate on each year or two, and they serve a period of time. The idea that they can get a unanimous vote is almost impossible. So decisive action is not possible. It has never happened, and it is not going to happen with the

U.N. But President Bush did get a resolution that Secretary Colin Powell worked so hard on, which in my view—authorized us to take military action.

Then they said they wanted another resolution, and we sought that. Then France flipped on us, and Germany said no. France even lobbied other countries around the world and blocked a further vote.

What were our options then? Do we just stop and not defend our legitimate national interests? Do we not carry out the foreign policy we believe is in our interests? Should we make it our policy to cede the decisionmaking authority the American people have vested in us, our elected President, our elected Congress, to some world body that has proven incapable of decisive action? I don't think so.

I believe we are on the right track in with the U.N. The President is showing respect to this group, but we are not going to allow the decision making power of our country to be shifted to the U.N. We are not going to turn over our military that the American people have supported, funded, and created, the finest military the world has ever known—we are not going to turn it over to them. In Kosovo, that is basically what we did. The NATO nations met to deploy our Air Force. We did that, and they kind of liked that. Maybe they think that is what the world is going to be like from now on, but it is not. We have a responsibility to lead.

As Tony Blair asked the question: Why America? Why now?

He said: My answer to you is that it is your destiny, it is your time. Who else can do it?

I believe in the values of this country. I trust our wisdom. I trust our good judgment. I believe in what we are doing, and I believe it is good for not only America but the world. I don't apologize for that, and I don't believe some socialist leftover Marxist veto in the U.N. should stop us from doing what is necessary for the world.

I yield the floor.

THE PRESIDING OFFICER (Mr. GRAHAM). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, we all watched with great interest the President's remarks at the U.N. yesterday. When one looks at the U.N., it is impossible not to have kind of a mixed view. Certainly the U.N. has, on many occasions over the years, done worthwhile work. But rarely, if ever, has it taken the lead on anything of significance.

The reason for that, obviously, is that the membership is so diverse. Many of the governments that are represented there of course are not democracies; they are not particularly interested in what America stands for, so it is not entirely surprising that the President's decision—and the support of Congress for that decision was 77 out of 100 votes to change the regime in Iraq—was viewed with mixed reactions at the U.N.

Had the United States waited on the U.N., Saddam Hussein would still be in power. But that is not what the President decided to do. The President led a coalition of 19 willing governments to liberate the people of Iraq. Although many in the U.N. actively opposed and many others were just completely ambivalent about that effort, there is no question that the world is better off with Saddam Hussein gone.

Make no mistake about it, that regime is no more. The only Iraqis who are not immensely better off are those who perpetrated crimes against humanity on a massive scale and abetted in the murder of 300,000 innocent Iraqi civilians. Not since Saddam Hussein was in power have innocent Iraqis been hauled off in the middle of the night to rape rooms and torture chambers. Not since Saddam Hussein was in power have innocent Iraqis been summarily executed. Not since Saddam Hussein was in power have ethnic and religious minorities been gassed or murdered at will by a tyrannical regime. And, yes, Saddam Hussein no longer provides succor and support to international terrorists who plot the murder of Israelis, Americans, and everyone who opposes their radical interpretation of Islam.

There are no more terrorist training camps in Iraq, and Saddam Hussein no longer cuts checks to support suicide bombings in Israel. The Iraqi regime is no longer pursuing weapons of mass destruction, and it will never be able to use them against its own people, not ever.

Are there problems in finishing the job in Iraq? You bet. But free Iraq remains hostile to terrorists and to tyranny. President Bush noted yesterday that there are still challenges in Iraq and they are challenges that confront all free nations. The terrorists are making a desperate last stand in Iraq and, frankly, I would rather be fighting them there than fighting them here.

The world's challenge now is to secure Iraq. We know nobody else is going to do that job for us. That is an American responsibility. We would like to have help from others, and we are going to get help from others, whether the U.N. officially endorses some kind of American effort here or not. But we are going to lead this effort and we are going to finish the job.

We are going to have a great debate here next week about providing the funds to finish the job. There will be a lot of amendments offered, a lot of amendments voted on, a lot of speeches made. But at the end of the day, with a bipartisan, overwhelming majority, the Senate is going to give the President the money to finish the job. We are helping the Iraqis round up terrorists and the Baathist thugs who oppose liberty for the Iraqi people. We are helping the Iraqis to rebuild roads and schools and hospitals. We are helping the Iraqis to build for themselves a multiethnic moderate democracy in the very heart of the Middle East.

This is a great cause. We ought to be rallying behind it. This is everything for which America has stood for several hundred years. Everything we believe in, we are promoting in Iraq. The Iraqis will be better off. The world will be better off when we finish this job.

Failure is not an option. Waffling around here just because the going is a little tougher than some had expected—and others had anticipated—is not what is called for at this particular time. Going home early is surely the way to reinvigorate al-Qaida and to make it possible for some other kind of tuggish regime to come to power there in Iraq.

Given the magnitude of the threat the proliferation of Islamic radicals and terrorism pose, not only to us but to the entire world, I am a little mystified that this seems to have become so controversial. As Senator LOTT was pointing out just a few moments ago, we have very short memories. Just 2 years ago, 3,000 of our people were killed in New York and in Washington. That is what this is all about: Taking the war to the terrorists where they are rather than here on the streets of the United States.

So, yes, we will have our debate. It will be vigorous. But at the end of the day, I am confident that the Senate, on a bipartisan basis, is going to do what is right for the Iraqis, for the United States, and for the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I heard and appreciate Senators LOTT, SESSIONS, and MCCONNELL speaking this morning about the importance of what we are doing in Iraq. We are preparing in the Senate to take up a supplemental appropriations bill at the request of the President to try to make sure we do two things:

First and foremost, to give support to our troops in the field. I visited them in the middle of August. I have seen how they live, and I have seen what they are doing. They deserve to have the troop support which allows them to do the job—the equipment, the living conditions, and troop protection. Everything we can do to allow them to do their jobs more effectively we are going to do. That is what the major part of this supplemental appropriations will do. We are going to support our troops in the field.

The second thing the President is asking for is money to rebuild Iraq. We will not be able to rebuild Iraq if we continue to have the ongoing terrorist attacks that tear down everything we have built. So we want to go in there with a full plan to get the electricity grid going, to get the water supply going, and to try to start building the economy by rebuilding the oil infrastructure.

We are going to support the President in his request. I have no doubt about it. We must win this war, and we must win the peace. We must stabilize

Iraq if we are going to keep the terrorists out of our country and stop them where they are.

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

The PRESIDING OFFICER. The Democratic leader.

#### REBUILDING IRAQ

Mr. DASCHLE. Thank you, Mr. President. I will use my leader time this morning so as not to take away from the allocated time in morning business for the Democratic caucus.

I wanted to come to the floor this morning to respond perhaps in part to the comments made by our distinguished colleagues.

I will start by emphasizing that there are many areas for which there is absolutely no disagreement. I don't think you will find any disagreement in the Senate today that it was a good thing that Saddam Hussein was removed from power. We acknowledge that it was a good thing. Saddam Hussein posed serious threat to the region, to his country, and to the United States. His absence is a positive development.

There is also broad recognition that we owe a deep debt of gratitude to our troops and to the military overall for the extraordinary challenge they face and the success with which they face it.

Let us also recognize that there is little disagreement that it is important to Iraq and this country that we allow for the reconstruction of Iraq. I think many of us are very concerned. This is where some of the disagreement and differences may begin to arise about the extraordinary lack of planning that went into the reconstruction effort. Some have suggested that we planned for months—maybe years—for the military effort, and it shows. It was a great success.

I have been told—and I will not say that this is confirmed, but I have been told—that we planned for less than a month on efforts to reconstruct Iraq. That also shows, if that is true. I think it is a fact that reconstruction has certainly not met with the same success and with the same degree of support within our own country that the military effort itself has.

That is where we come to our point of disagreement. I regret that the President lost the opportunity that he had yesterday in making his presentation to the United Nations. He lost an opportunity to make the case for broader involvement in the world community. He didn't ask for more troops. For whatever reason, he didn't ask for more resources. He failed to build the broad coalition that will be required if ever we are successful in the future reconstruction of Iraq. There is no disagreement whatsoever that it is in our interest to find ways to engage the world community more effectively and to make a better effort at public relations required to do it successfully in Iraq.

There is a front-page story in the Sioux Falls Argus Leader this morning about an Iraqi businessman from Sioux Falls who, months ago, left Sioux Falls to work in his hometown in Iraq as they began to rebuild. He became very involved in the creation of a new government. He was an ardent opponent to Saddam Hussein. He commented this morning that he comes back with grave regret about what he has seen. He said that, unfortunately, more and more Iraqis are losing their confidence and trust in the reconstruction effort; that more and more we are losing the public relations battle.

While we all want to find a way to ensure that we are successful, it would be wrong for us to bury our heads in the sand, to plow forward, to salute the flag, and say: Look, everything is just great. All we need is more money.

We can't do that. We have to make an honest assessment of our circumstances, acknowledge that there is work to be done, and be honest with ourselves and the world community on how we accomplish all that we have set out to do. To do it successfully requires candor first and honesty second. Unfortunately, we have not seen enough of that today.

We are being told that we are going to rush through this request for resources, \$87 billion—a couple of days of hearings, a quick markup, a couple of days of floor debate and, bang, it is done. I have to say that isn't going to happen. We have to be deliberative.

As the Senator from Kentucky suggested, we have to consider alternatives, offer amendments, have a good debate, and make sure this \$87 billion was committed appropriately.

I say that the President missed his chance to speak candidly yesterday. I would have hoped that he could have laid out a plan, and that he could have been very specific with regard to how we more effectively put this coalition together. We hear so much discussion about the involvement of other communities. We are told that we would expect the world community to produce about \$55 billion in resources to match the \$87 billion requested by the President by the United States. Yet, again, yesterday Ambassador Bremer had to acknowledge that out of that \$55 billion expectation, the world community has only provided \$1.5 billion.

I would have hoped the President could have been more specific with regard to our plan for troops. What will they be doing? How long will they be there? To what extent will we have to keep them there, and for how long?

Over the course of the next couple of weeks, it would be my hope that the President could come to the Congress with very specific requests with regard to that \$87 billion and with regard to the resources he says he needs. I hope he could lay out with some specificity what his plan is for the reconstruction of Iraq. We were told by Ambassador Bremer yesterday that the \$20 billion

over and above the \$65 billion request for our troops is the last, final installment. There will be no more additional requests for Iraq from here on out.

I wish I could believe that. I wish I knew they had that level of confidence that not one dollar more would be requested.

I wish I could better understand their opposition to a proposal made by the distinguished Senator from North Dakota, Mr. DORGAN, and others who have suggested we collateralize the oil revenues in Iraq for the next 20 years. We are told that could be upwards of \$160 billion. Collateralized through an IMF loan may not necessitate the need for \$20 billion or \$30 billion on the part of the United States. They may have the second most formidable oil supply in the world. Why we would not collateralize and find ways with which to utilize the resources available to them is something the administration needs to more thoroughly explain.

Mr. REID. Will the Senator yield?

Mr. DASCHLE. I am happy to yield.

Mr. REID. Is it true that the request of the President, if granted, will cause the United States sometime next summer to increase the debt ceiling of this country?

Mr. DASCHLE. Unfortunately, I have to acknowledge to the Senator from Nevada, that is what we are now being told. I was going to address that in a moment, but the Senator is absolutely right. We have been forced to address the debt ceiling this year for the second time. We will be called upon within this Congress now to address it the third time. We are told by CBO that we could see in excess of \$6,000 billion of debt by the end of this decade. Some have suggested that if all of the tax cuts that are now scheduled to be implemented go into effect, that number would reach \$10,000 billion by the end of this decade.

The CBO, in a very rare moment, in my view—we do not often hear them editorializing on things of this matter; they usually give us the fact and leave it at that—used the word “unsustainable.” That \$10,000 billion, even \$6,000 billion, of debt is unsustainable.

The American people have said, if we are going to be mired in unsustainable debt, somebody better start asking questions about whether this \$87 billion or the \$22 billion for reconstruction, or whatever other additional expenditures, will not so seriously undermine the investments in our own country—education, health, and social security—it could be one of the most damaging things to our own security, ironically, that we could be considering.

Mr. REID. Will the Senator again yield?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada.

Mr. REID. I ask, through the Presiding Officer to the distinguished Democratic leader, this question. It is true, is it not, in the first gulf war there were 200,000 troops supplied by

other countries? It is also true, is it not, that 90 percent of the cost of the war was borne by other countries? It is also true in this war that 90 percent of the costs or more are being borne by the United States, 90 percent of the casualties, 90 percent of the troops on the ground is the United States.

There is a tremendous difference between the first gulf war and the second gulf war; is that true?

Mr. DASCHLE. Unfortunately, the Senator in his question makes a very important point. We talked about international involvement. I call it more cosmetic than real. As he has noted, there has been minimal involvement in a broad coalition of countries that oftentimes are considered Third World, countries that economically, militarily, do not have the weight and the breadth and depth of power and potential that countries that are traditional allies of the United States have always had.

For whatever reason, we cannot involve Europe, we have not involved Russia, we have not involved China, we have not involved India, we have not involved countries in a meaningful, substantive, and consequential way. As a result, as the Senator has noted, the lion's share—over 90 percent of the responsibility financially, militarily, organizationally—has fallen upon the United States.

I talked to a young woman in Brookings, SD, on Saturday. She told me she is leaving for Iraq within the month, that she was going to be gone anywhere from 8 to 13 months. She has a family, a job, and she is prepared to do that as a member of the National Guard. She has the right to be very proud of the extraordinary contribution our members of the Guard have made, but they and we have a right to ask, Where is the help from others? Where are the Europeans? Where are the Chinese? Where are the Russians? Where are the Japanese? Why is it that we are asking that young woman to provide 90 percent of the sacrifice?

Where is the sacrifice even in this country among some? Those at the top, the top 1 percent, who will be getting an average of \$283,000 in a tax break this year, where is the sacrifice? Should they not be required to help share the burden of paying for the war, if nothing else?

Every single dollar we will be considering next week, every single dollar, will be borrowed. We were told yesterday in the New York Times that every dollar we borrow costs \$3.60 to pay back—not over 10 years but over 6 years. So one could say that this is not an \$87 billion cost to the Treasury; it is more like \$300 billion because that is what it will take to pay back over a 6-year period of time alone.

That is why I say it is very important we ask these questions; that the President come forth with greater clarity and far more substance with regard to his specific plans on how this money is going to be used and with far more transparency.

Some generals recently noted that we have no appreciation, no real understanding of where this money is going now. We spend \$1 billion a week and no one can tell us on what with any clarity. We know some goes to troops; we know some goes for reconstruction. We do not know how fast it is being spent down or where the money is going with regard to payment for other countries for their involvement, nor do we know what kind of profiteering is going on.

There was a report in the New York Daily News yesterday that Halliburton could generate more than \$7 billion in one contract right now—that is billion, with a B, \$7 billion. Should there be more competitive bidding and transparency with regard to the contracts? Of course there should.

We will continue to persist with our questions. We will offer amendments. We look forward to the debate.

I yield the floor.

Mr. DURBIN. I ask to be recognized in morning business.

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

Mr. DURBIN. Mr. President, I thank the Democratic leader for his statement. It raises some critical issues.

I listened as my colleagues on the Republican side came to the floor this morning when they had the opportunity to talk about the situation in Iraq. The premise of many of their statements is undeniable, and that is the fact we cannot walk away from Iraq. As expensive as it may be, as dangerous as it may be, as many lives as it may claim, the fact is, once the decision was made to invade Iraq and topple the government, we have a responsibility there. For us to leave now and let Iraq descend into chaos to become a training ground for more terrorism in the region and against the United States is totally unacceptable.

The fact is, for good or for ill, we are in a situation where we are faced with this responsibility. It is a substantial responsibility. As we look to the reasoning that led us into Iraq, there have been a lot of revelations over the last 3 or 4 weeks. You may recall initially the administration said: We believe that Iraq is in a position where it can build nuclear weapons that could threaten the world; these nuclear weapons could be used for terrorist purposes. In fact, the President of the United States in the State of the Union Address spoke of this fissile material coming into Iraq from Niger, an African nation.

Further investigation leads us to conclude that perhaps we were wrong. The President has conceded his statement in the State of the Union Address was wrong. There was no evidence of fissile material coming from Africa into Iraq.

Frankly, today, 5 months after the end of military operations, there has been no evidence uncovered to suggest there were nuclear weapons in Iraq when the administration told us. That was one of the reasons we had to go to war.

Of course, the other reason that was raised—with some frequency—was weapons of mass destruction, chemical and biological weapons that could threaten the region and the world. In fact, at one point in time someone in the administration said—I believe it was the President—that within 45 minutes the Iraqis could launch an attack on the United States with chemical and biological weapons.

Well, we know where we are today. Five months after the military hostilities have ended, those overt hostilities, we have found no evidence of weapons of mass destruction. None. Our troops went in, in full gear, prepared to confront chemical and biological warfare, and it never happened. The administration has said that is really irrelevant; the important consideration is the fact that many years ago Iraq had chemical and biological capability.

I have to remind them, that is not what they told us before we invaded Iraq: It was a real threat, an imminent danger, and one that had to be preempted, that we had to move on, even before the Iraqis showed any hostilities directly toward the United States.

Today we are emptyhanded. Today we can find no evidence of weapons of mass destruction. Perhaps something will be found.

I always qualify my remarks thinking, How could we have missed it? How could we have said that we identified 550 sites of weapons of mass destruction before the invasion of Iraq and today, after thousands of inspectors on behalf of the United States have combed through Iraq, after the end of the military operations, we find nothing. I still think we are going to find something, but as the days go on and weeks go on and months go on and nothing turns up, it becomes more and more apparent that the weapons of mass destruction threat in Iraq was grossly exaggerated—exaggerated far beyond reality. And it was one of the real bases for our invasion of Iraq.

The third one was a miscalculation by some people in the administration to associate Saddam Hussein with 9/11 and to suggest that Saddam Hussein and Iraq had something to do with it.

Well, there is no evidence of that. Despite the fact that loose rhetoric by members of the administration led some to conclude there was a linkage, that somehow Saddam Hussein was supporting the al-Qaida terrorists who attacked the United States, despite that loose rhetoric, there is no evidence of it.

Last week or the week before, the President came out and publicly said that. He said his Vice President was wrong on "Meet the Press." They could find no linkage between al-Qaida and Saddam Hussein.

So those three elements that led us to invade Iraq have all virtually disappeared.

The one that remains, the one that the Democratic leader alluded to, I do not quarrel with. Saddam Hussein was

a terrible man, a terrible leader, and a terrible threat to the people in his region. The fact that he is gone is good for Iraq and good for the world. That is a positive thing.

But all of the other justification that led to such a substantial vote for use of force in Iraq, all of that justification has evaporated right before us. That is the reality. It appears that the facts have changed pretty dramatically from what the administration told us we would find in Iraq.

But when I listen to my Republican colleagues on the floor, their arguments about the invasion of Iraq have not changed.

This much we do know. Our military did an outstanding job. Let me add, parenthetically, that during the course of the Presidential campaign, then-Governor Bush, now President Bush, alluded to the fact that our military was so weak and so hollow and so unprepared because of deficiencies of the Clinton administration that they did not do a good job in the Department of Defense, they did not prepare our military.

Well, look what happened when that Clinton-prepared, Clinton-equipped, Clinton-financed military went to war in Iraq. They did a spectacular job. The bravest, most skilled men and women in uniform in the world, with the best technology, rolled over Iraq in 3 weeks—an amazing military victory, a tribute to their skill and their planning.

Let me underline that word "planning" because you have to say that at the end of these open hostilities, May 1—the conquest of Baghdad and the military victory in Iraq—we have to say, from that point forward we have not seen the same skill and we have not seen the same planning. Exactly the opposite has been the case.

It is apparent to us, as we listen every single day to reports, tragic reports about the loss of American life and more American casualties, that little planning took place to anticipate what we would find in Iraq.

Do you remember the scenarios painted by the Bush administration about what would happen after Saddam Hussein was gone—how the Iraqis would cheer us in the street with open arms, putting flowers into our rifle barrels, and all the rest?

Unfortunately, that celebration was short-lived. In a very brief period of time, the Iraqis, who were glad to see Hussein gone—and I am sure that is the overwhelming majority—also asked that we leave. When we did not, more tension was created, and that tension has led to a loss of American lives. More lives have been lost in Iraq since the President declared the end of military operations than occurred during the course of the invasion and war in Iraq. That is a sad reality.

It is clear the Bush administration did not have a plan to deal with Iraq after the war was over. That is so obvious and so evident. Frankly, I think

the President's speech of 9 days ago told that whole story. The President came to the American people—and Presidents rarely do this—on a Sunday evening and announced we needed \$87 billion in an emergency supplemental appropriations for Iraq.

The American people were stunned, stunned by the size of that number. Now, when you break out that number, you see that some \$67 billion is going to go for our troops. I think I can say without fear of contradiction that there will not be a single Senator—Democrat or Republican—voting against that. We are going to give our troops in the field every dollar they need to be successful, to be safe, and to come home. That money will be appropriated by this Senate with very little debate. There will be some questions about how it will be spent, but I believe, when it is all said and done, the \$67 billion will come racing through the Senate, as it should. We should never shortchange our sons and daughters and relatives and friends and family who are serving in the military of the United States.

But it is the rest of the appropriation that has raised so many questions and so much concern—\$20 billion for the construction and reconstruction of Iraq. Five billion dollars goes for a police force. I am for that. The sooner we can get American soldiers out of the jobs of directing traffic, keeping order and law in place in marketplaces, guarding banks and guarding universities, the sooner we can get American combat soldiers out of that role the better. Iraqi policemen should do that job. But that is \$5 billion.

The remainder is \$15 billion for the construction and reconstruction of Iraq for a variety of things—the draining of the wetlands in Iraq, the refurbishing and construction of 1,000 new schools in Iraq, the building of new hospitals, railroads, telecommunications, electric supply, water and sewer—a massive infrastructure investment.

Yesterday, the man who is responsible for that, Ambassador Paul Bremer, came to speak to us just a few yards away from this Chamber. He addressed our senatorial luncheon on the Democratic side. I asked him a few direct questions.

First, I asked him: We gave you some \$79 billion for the troops and reconstruction just a few months back. How long will that money be there for you to use? When will you run out of the \$79 billion we have already appropriated?

Ambassador Bremer said: December the 1st.

Now, that is an important date to remember because you are going to hear from the Republican side of the aisle that we need to pass this supplemental emergency appropriations bill by the end of next week, at the latest by the end of next week. Well, that would be by October 3.

By my calculation, that is 2 months away from when the money is actually



needed. So if we take another week to ask some questions about how this money is being spent, it certainly is not going to be at the expense of either our troops or our efforts in the reconstruction of Iraq today. I think we owe that to the American people.

I then asked Ambassador Bremer: What is the total cost for construction and reconstruction in Iraq?

He said: The World Bank estimate is \$60 billion.

We are pledging, with the new \$87 billion appropriation, \$20 billion of the \$60 billion, so that leaves some \$40 billion that needs to be found.

I said to him: Where will we find the additional \$40 billion?

He said: From donors around the world.

I am very skeptical of that. I think the American people should be. The President found yesterday that his visit to the United Nations did not result in countries around the world standing in line queuing up to send their troops and their treasure to help us in Iraq.

They have their own concerns and their own problems and their own financial priorities. In fact, we asked Ambassador Bremer, the total amount pledged by the world to help us in Iraq for reconstruction to this point does not even reach \$2 billion, so we have a shortfall of some \$38 billion in the planned reconstruction of Iraq. I said to the Ambassador: I assume then that the \$20 billion you are asking for now from the American people is just a downpayment. You are going to be back for more?

Oh, no, he said. This is it. This is all we are going to ask for, \$20 billion.

I doubt it. I am skeptical of that. What are we going to do if the other countries around the world don't put their money into the reconstruction of Iraq? Are we going to give up on that and walk away? I started this statement by saying that is unacceptable. We can't do that. It is our responsibility. Once the President and this country made a decision to invade, we had a special responsibility, as painful and expensive as it may be, to Iraq. That was the administration's decision. That is where we find ourselves today.

This, incidentally, is the plan of the administration, "The Coalition Provisional Authority in Baghdad, Achieving the Vision to Restore Full Sovereignty to the Iraqi People, an Overview." I first saw it yesterday. It is dated July 21—2 months ago. We asked Ambassador Bremer: Why is this plan for the future of Iraq just surfacing now?

He said: I thought we had sent that out to every Senator and Congressman.

Well, none of my colleagues with whom I have talked saw it until just within the last day or two.

When you look through this plan, you start asking a lot of questions. Let me go to an early part of the plan, on page 7: "Resources to Rebuild Iraq." Let me quote from the plan:

It is difficult at this point to quantify the external assistance needed to support Iraq's transition to representative government in a market economy. Eastern European experience suggests that a substantial international commitment will be needed.

It goes on to say:

Only a coordinated international effort can bring prosperity and stability to the Iraqi people and contribute to a lasting peace in the Middle East.

I don't quarrel with that conclusion, but the facts today say this so-called plan by the Bush administration isn't going to work. If we could only raise some \$2 billion from around the world to deal with the reconstruction of Iraq out of a total cost of \$60 billion, where is the significant commitment that is needed from countries around the world? It isn't there. Once again, it is going to fall on the shoulders of America's taxpayers. It is going to fall on the shoulders of American families to deal with.

It couldn't come at a worse time, when we are dealing with America's economy today. We have lost more jobs under this President than any President in the last 70 years. More jobs have been lost under President George W. Bush, 3 million more jobs lost, than under any President since Herbert Hoover in the Great Depression.

I feel it in my State, where we have lost about 20 percent, and one out of every five are manufacturing jobs that have gone overseas, to China and other places. Other States around the Nation are experiencing the same.

We are also dealing with a failed effort by the Bush administration to revive the economy and get it moving. They initiated all of these tax cuts which are pushing America beyond the brink of bankruptcy, tax cuts that are driving us into a deficit hole the likes of which we have never seen in the history of the United States, tax cuts that go primarily to the highest income individuals. What have they achieved? They have created record deficits.

Think of this: When this President took office, he was dealing with a record surplus left over from the Clinton administration. Now, in just 3 short years, he has taken that surplus and turned it into a record deficit, aggravated by the cost of sustaining what is inevitable in Iraq.

What does it mean when that deficit comes down to our own budget here at home? It means cutbacks in education and health care. If you followed the Senate debate 2 weeks ago about the appropriation for education, you would have found us day after day, hour after hour, voting down amendments—supported by Democrats, opposed by Republicans—to put more money into education. We offered one amendment that said we want to take the President's promise for No Child Left Behind and make it a reality. Senator ROBERT BYRD offered an amendment that we would take the \$6 billion shortfall in the President's promise to school districts around America and we

were going to appropriate it. It was voted down by the Republican side of the aisle. Why? They said we couldn't afford \$6 billion for American schools.

Think about that for a second: \$20 billion for Iraq reconstruction. Yes, the Bush administration says we must. But \$6 billion as promised for American schools? The answer was: No, we can't do it.

As a matter of fact, the \$87 billion requested by the President for Iraq is more than the total we will spend next year on education and homeland security in the United States. Think about that for a second.

There is another element, too. We are financing the war in Iraq with deficits. We are borrowing money to pay for that war. We are not cutting spending. We are not raising taxes. We are borrowing the money from the Social Security trust fund. We are endangering Social Security. We are limiting the reserves and resources of Social Security at a time when millions of baby boomers are just years away from showing up for their Social Security checks. It is the height of irresponsibility.

The President's tax cuts have pushed us to this point of bankruptcy and deficits, the deepest deficits in the history of the United States, at the expense of health care, education, and the solvency of the Social Security trust fund. All of those things are part of the Bush package over the last 3 years. Yet this President came to us 9 days ago and said: We need to dig deeper; we need \$87 billion more to pay for the war in Iraq.

When you ask the American people what is a good way to pay for the war in Iraq, they say: Why don't you eliminate or at least postpone some of the tax cuts for the wealthiest people in America that the Bush administration has pushed for?

That certainly seems reasonable to me. If someone happens to be making \$1 million a year and are receiving \$38,000 or more in tax cuts, is it too much to ask that person making \$1 million a year to give up that tax cut to deal with our deficit, to pay for our war in Iraq? I don't think it is unreasonable. But, frankly, the administration says that is totally unacceptable. They want even bigger tax cuts, more permanent tax cuts for people in higher income categories. It is the height of irresponsibility.

The American people understand this. Our economy is weak. We have lost a record number of jobs. Our deficit is growing at a pace unrivaled in American history. We find health care and education being cut back, Social Security endangered, and the President wants \$87 billion for Iraq, a price tag without a plan.

This is no plan. What we have been handed by the administration is, frankly, a wish list of ideas that isn't backed up in reality. There is no explanation here of what we will do in Iraq if other countries around the world don't join



us, don't come to our side and our alliance in terms of the future of Iraq. There is no plan whatsoever. Without that plan, there are a lot of questions that need to be asked here in the Senate.

I sincerely hope my Republican colleagues who fashion themselves as fiscal conservatives will come to understand what we are faced with. They have voted for tax cuts which have bankrupted America. We now find ourselves in a position where the bankruptcy hole is getting deeper and deeper. We need to ask the hard questions. Some of them are painful.

We will never scrimp when it comes to paying for the support of our troops, nor should we; we will give them all the money they need. But when it comes to rebuilding Iraq, we need to ask some hard questions.

One question that needs to be asked, front and center, is the question of profiteering in Iraq. It is unconscionable, it is unexplainable, it is indefensible that Halliburton, Vice President CHENEY's former corporation, stands to gain up to \$7 billion in no-bid contracts for Iraq where they, in fact, are the single bidder on contracts. When we asked the Department of Defense, Why in the world are you giving Halliburton so much work to the exclusion of all the other companies in America, they said: We would like to tell you, but it is top-secret classified information.

Excuse me. I don't believe that. I think, frankly, having competitive bidding for work to be done in Iraq is only reasonable. It should be a supreme embarrassment to this administration that the company that continues to pay the Vice President, a company which had a close, personal, financial tie to him for so many years, is the company that continues to profiteer in Iraq.

There have to be other companies in America capable of doing this work that should at least be allowed to bid on the contract. But that has not taken place. Unless and until it does, I am afraid a lot of people will be skeptical about this plan to rebuild Iraq.

There is one last point I wish to make. The President basically announced on May 1 that military operations in Iraq were over. Recently, the American people were asked if they believe the war is over. By a margin of 89 to 10, the American people said, no, the war in Iraq is not over. When you wake up every morning, turn on your radio or television, and the lead story is another American soldier being killed, you realize the war is not over. When you reflect on the pricetag of \$1 billion a week to sustain the military operation in Iraq, you know the war is not over. When the President asks for \$87 billion in a deficit-ridden economy for a plan that doesn't exist to rebuild Iraq, you know, sadly, that the war is not over.

We can do better as a nation. We need to come together as a nation. We need to plan to find a way to bring security to Iraq in a responsible fashion.

I yield the floor.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time in morning business?

Mr. DURBIN. Yes, Mr. President.

#### DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2765, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2765) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

#### AMENDMENT NO. 1783

Mr. DEWINE. Mr. President, I have a substitute amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 1783.

Mr. DEWINE. 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 the RECORD under "Text of Amendments.")

Mr. DEWINE. Mr. President, as chairman of the District of Columbia Subcommittee, it is my pleasure to present to the Members of the Senate this morning a bill that has been approved by the Appropriations Committee.

Let me first thank the Senator from Louisiana, Ms. MARY LANDRIEU, my colleague, for her excellent work on this bill. She has worked very hard with me. I thank her for her efforts in drafting this appropriations bill that is before us this morning.

This bill provides \$545 million in Federal funds for the District of Columbia, and it also includes the city's own local budget of \$5.7 billion. The funds in this bill focus on a number of key priorities for the District of Columbia. I wish to highlight four of those priorities.

First is improving the lives and opportunities for children in foster care.

Second is enhancing educational opportunities for inner-city students.

Third is reducing and preventing crime in the District of Columbia.

Fourth is increasing the security in our Nation's Capital.

Mr. President, I wish to discuss the first priority at some length—improving foster care in the District of Columbia. No one who is familiar with our Nation's Capital needs to be reminded about the sorry state of the foster care system in the District of Columbia. No one who reads the Washington Post, no one who lives in the District of Columbia, no one who lis-

tens to the radio needs to be reminded of this. The foster care system in the District of Columbia is a scandal; it is a crime; it is a tragedy. The fact that it exists in our Nation's Capital makes it even worse. We have an obligation as Members of the Senate and this Congress to do something about it.

Senator LANDRIEU and I started well over a year ago to focus on the foster care system. We decided to have a series of hearings, where we would bring in experts from the District and from across the country to look at the foster care system in the District of Columbia. Our goal was to try to find out as much as we could about the foster care system in the District of Columbia, try to find out what was wrong with it, and try to find out what we could do as Members of the Senate, what the Federal Government could do to try to be of assistance.

This bill represents the first attempt by the Federal Government to directly impact this foster care system in a very meaningful way. What we did was listen to the testimony, listen to the foster parents, listen to the experts, and take their suggestions. What you will find in this bill are the ideas that came from these parents, from the experts, from the people who see this system day after day. We have provided some money, which we believe will help with these ideas and begin to change this system. It is the right thing to do.

As Members know, over the years, the District of Columbia has had an abysmal record in protecting the lives and well-being of the children in the District's care. Children in foster care have died, been abused, or they have languished for years in foster care, often bouncing from foster home to foster home without ever finding permanent placement with a loving family.

The statistics are shocking. Children in foster care in the District spend an average of 5 years in foster care before they achieve a permanent placement. I will repeat that. The children in the District of Columbia spend an average of 5 years before they ever find a permanent home. Obviously, that means some children languish in foster care much longer than 5 years. That is wrong, and we must do something about it.

During our subcommittee hearings, we found that the District of Columbia is unable to track its children in foster care. They cannot even keep track of them. We have this very sophisticated—supposedly—computer system, yet inputs are not being made, the tracking is not taking place, and complete data is not even available in the child and family services computer system for over 70 percent of children in foster care today. How can we keep track of these poor kids and determine their well-being when much of their personal information is not ever entered into this automated computer system? This simply must change.

While putting together this bill, Senator LANDRIEU and I learned a lot. We

learned that only about one-third of the children in foster care who need mental health services are actually receiving the services. Moreover, many children who come into care wait for weeks and weeks, or months and months, before they even receive that first mental health assessment.

Let's understand that these are not just your average children. These are children who, many times, have been neglected, abandoned, physically or sexually abused, or they have witnessed, many times, terrifying domestic violence. These are obviously children who need some initial, at least, assessment in regard to their mental health problems. For them to wait months before an assessment is just wrong. It makes no sense. It is just asking for trouble.

Clearly, we all understand that these kids, after experiencing trauma and abuse and neglect, are in desperate need of mental health services. We need to provide those services quickly to these children.

Furthermore, during our committee hearings on foster care, Senator LANDRIEU and I learned that there is a severe shortage of social workers in the District. That should not have been a revelation to anybody. We know that from articles we have read in the newspapers. But it was brought home even more starkly in the hearings we held—the shortage of well-trained social workers in the District of Columbia. Many of these workers are carrying extremely high caseloads, making it very difficult for them to do their job. Also, many of these caseworkers simply are not being provided the tools they need to get their jobs done.

We found there are several critical needs that, if addressed, could certainly go a long way in improving the lives of thousands of children in the District's foster care system, and it would expedite their placement in stable, loving homes. Therefore, this bill does contain \$14 million in new money to address these needs.

Let me explain what these new programs and ideas are.

No. 1, we provide for intensive early intervention. This means when a child comes into care, the case will be treated as an emergency situation. Just as hospitals triage medical trauma, the District's child and family service agency triage the emotional trauma facing children who are brought into their care. The earlier a child is stabilized, the better his or her chances of avoiding long-term damage. If a child can remain with an appropriate or qualified family member, he or she will face much less emotional trauma.

Some of the funds provided in this bill will allow the agency to staff such an early intervention program and will establish a flexible fund for the purchase of beds, clothing, and other items to ensure that a relative can bring a child into his or her home immediately without forcing the child to stay in a group home or foster home.

Second, early mental health evaluations and timely mental health services for all children in foster care. What does this mean? The bill provides \$3 million for the District's Department of Mental Health to ensure all children receive mental health assessments within 15 days of coming into foster care; further, that all mental health assessment reports are provided to the court within 5 days of assessment and that all children receive mental health services immediately after the court orders those services. This will help alleviate the current intolerable situation.

According to the District of Columbia Family Court, in most child abuse and neglect cases where mental health services have been ordered, there are long delays in providing these services to the child or to the family. It can often take up to 6 to 8 weeks, or longer, to complete an evaluation and up to 60 days after the evaluation before the mental health services are actually provided, even in very serious and dangerous situations. Under this bill, that would change.

The third provision of this bill will provide for the recruitment and retention of qualified social workers and will begin to deal with this problem. How do we do this? The bill will provide \$3 million in new money for the repayment of student loans to encourage social workers to enter or to stay in the field. It will allow this money to be provided as an incentive to pay back student loans if the young social workers agree to continue to stay and work. It will take that burden away from that social worker.

One of the problems, of course, is a person wants to be a social worker, they want to do good, they want to stay in the field, but because of this low rate of pay and they have this big burden, this big debt, they cannot stay in the field very long. They have to do something elsewhere where they can make more money to pay back the debt.

This bill will help them ease that burden. It is no surprise that the higher the caseload per social worker, the lower the quality of service to each of the children.

The District, like many cities, suffers from a high turnover of social workers. That is not good for the kids. In fact, the national current turnover rate has doubled since 1991. Clearly, the relatively low pay and difficult working conditions of social workers have resulted in a child welfare workforce crisis in the District. Without doubt, steps must be taken to encourage more social workers to enter the child welfare workforce and we must improve the salaries, we must improve the working conditions and the training of workers, and we want to retain more of the qualified and experienced social workers. The reality is, the longer a social worker is there, the more experience they get, and we want to retain the experienced social workers.

The fourth provision of this new program is recruitment and retention of foster parents. The bill provides \$1.1 million to recruit and retain foster parents. CFSA has experienced difficulties with recruiting and retaining an adequate number of appropriate foster care parents. One reason for this is lack of availability of respite care for foster parents. This is one of the items Senator LANDRIEU and I heard foster parents tell us—good people who were very much overburdened. One mom who came in was taking care of many children. She said: If we just had the opportunity for a few hours to have a break, this would be of great help.

Foster parents do not have the same opportunities for respite as biological parents many times do. The funds in this bill would provide emergency respite, planned respite, and ongoing regularly scheduled respite care. This is critical to provide foster parents the rest they need to continue to stay on as foster parents.

The fifth provision is to improve computer tracking of all children in foster care. I talked earlier about the situation of the computer system and how bad it is. The bill provides \$3 million to move the agency's current client-server system to a Web-based architecture and to provide laptop computers to all CFSA social workers.

The subcommittee heard testimony from the General Accounting Office that CFSA's database lacks many active foster care cases and the system is often down. In addition, social workers do not have access to the database via laptop computers when they are with children, foster families, or while waiting in court. This would be a great opportunity to better utilize the precious time of social workers so they can use that time sitting in court or, when they are out in the field, to put the data directly, immediately into that computer. This is to better utilize the precious time social workers have.

Social workers now must return to the office late at night and enter the data of children in care. With laptop computers and Web-based access to information, social workers would then be able to enter key data from off-site locations. We want social workers to use that precious time hands on, dealing with kids, dealing with families. That is most important. Using technology better will enable them to spend more time with these families. We want them to spend time on case plans and working with the families. This will enable them to do that.

I spoke at length about the foster care initiative in this bill because it is so very important. It breaks new ground. It does something about which Senator LANDRIEU and I feel very passionately. We feel passionately about it because we learned so much about it in the hearings we held. This subject deserves this Congress's time. It deserves our attention. It deserves our money.

As chairman of this subcommittee, I and the ranking member, Senator

LANDRIEU, have listened to far too many horror stories about children dying or being abused in the District's foster care system. As a Federal partner with this city, I believe it is imperative we provide funds and seek ways to protect the lives of these very precious children. It is our duty and it is our moral responsibility to do so.

The second priority which this bill funds is enhancing educational opportunities for inner-city kids. This bill provides a total of \$40 million new money—I emphasize “new money”—for three interrelated components: \$13 million to promote excellence in traditional public schools in the District of Columbia; \$13 million to expand choice through high-quality charter schools; and \$13 million for opportunity scholarships for low-income students in failing schools to attend private schools; and \$1 million for administrative fees. That is \$40 million in new money for the District of Columbia's children to help educate them.

This is a balanced approach. It is balanced because, as I said, it is \$13 million, \$13 million, and \$13 million. It is evenly divided. The charter schools, \$13 million; public schools, \$13 million; and \$13 million for the new scholarships.

Let us make no mistake about it. This is new money. It is not taking it from the public schools. It is not taking it anywhere else from public education. This is money that Senator GREGG has worked long and hard to come up with, other Members have worked long and hard to come up with, to put together in a package that is balanced, that is reasonable, and that we will be talking about more on the Senate floor later.

It is for the kids in the District of Columbia and it makes sense. This is a plus-up in funding. This is new money. It is for the kids in the District of Columbia.

Turning to the bill itself, I will read directly from the language of the bill. We will be discussing this later. I think the bill says it very well on page 21, when we talk about these scholarships. It provides students and their families with the widest range of educational options, because that is really what we are talking about: public schools, charter schools, and, with this additional \$13 million to scholarships, options for the parents, options for the students.

I am pleased to report that this three-sector approach to improving DC schools is wholeheartedly supported by Mayor Anthony Williams. He has been out front in leading the charge for this plan. He was on Capitol Hill yesterday very eloquently describing why this is needed for the District of Columbia.

The plan for the District has wide support, but the most important supporters for this program are the thousands of low-income parents of schoolchildren in this city whose children are languishing in failing schools. Under this bill, the priority for children to be able to get these scholarships is children who are in what are described as

the failing schools. These parents want an opportunity to try a new approach. I believe they deserve that opportunity. Their hope is for a brighter future for their children.

The third priority funded by this bill is reducing and preventing crime in the District of Columbia. The Federal Government entirely funds the DC courts and the Court Services and Supervision Agency. This bill provides a total of \$377 million for these agencies, which is \$18 million more than the President's budget request. Most of these additional resources are to integrate the 18 different computer systems that track offender and litigation information.

In addition, the bill provides additional resources to allow the Court Services and Supervision Agency to enhance its supervision of high-risk sex offenders, as well as offenders with mental health problems and offenders with a history of domestic violence. I submit that these are the most dangerous offenders. These are offenders who are the most likely to cause harm and damage to the citizens of the District of Columbia, and to the tourists and visitors who come here every single day.

Senator LANDRIEU and I held a hearing. We heard from the people in the Government of the District of Columbia and the Federal officials who are charged by law with supervising these individuals who are out on parole and probation. What they told us was these are the most high-risk offenders. They are out on the streets. Right or wrong, they are out on the streets. They told us these are the most dangerous individuals.

I must say from my experience years ago as a county prosecutor that there is no doubt these are the most dangerous offenders. What we learned is that the ratio of the supervisors to these offenders today is only 42 to 1, many times. In other words, 42 offenders to 1 supervisor. What our bill would do is to take that ratio down to 25 to 1. It is the right thing to do, and we are going to do it with this bill. We are targeting those dangerous offenders. This is a boost to safety in the District of Columbia.

Additional resources also will expand the Agency's use of GPS-based electronic monitoring equipment to ensure that offenders are not near locations such as schools or specific residences.

The fourth priority in this bill is increasing security in the Nation's Capitol. Since September 11, we all understand the importance of security in the District of Columbia. Therefore, the bill includes security funding, including resources to complete a Unified Communications Center which will be the center for coordinated multiagency responses in the event of regional and national emergencies.

Funds also are included to continue to prepare the District's largest hospital, Washington Hospital Center, and its only dedicated children's hospital, Children's National Medical Center, for

bioterrorist and chemical attacks. We began this process last year and further funding is in this year's budget.

The bill also continues to provide funds to reimburse the District for increased police, fire, and emergency personnel costs associated with the presence of the Federal Government.

Let me again thank Senator LANDRIEU, who is the ranking member of the subcommittee. It is always a pleasure to work with her. She has done a great job on this bill. She and I share the same concerns for the children and the residents who live in our Nation's Capital. We have worked very closely together on this bill. I believe we have put together a bill that is within budget. It is a bill that focuses on improving the well-being of the District's children and protecting the safety of all those who live and work here.

So I thank Senator LANDRIEU, I thank the Chair, and I will at this point yield to Senator LANDRIEU.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I begin by thanking the chairman for the breadth and depth of those excellent opening remarks, which demonstrate beyond any doubt his commitment to the budget before us and to the plans that it supports.

I also acknowledge our strong working relationship and commend him for his leadership on so many important issues for the District and also for the Nation at large. He has gone into great detail about the child welfare issues, which is one of the issues that he has led on not just in the District but in his home State and around the Nation.

We have been working together now for almost 3 years, sharing the chairmanship, depending on the majority of this Senate. It has been a joy to work with someone who shares so many of the same goals and objectives.

As Senator DEWINE has outlined, our bill is small in size but it often carries a powerful punch, because it is a bill that supports a city but also a symbol. It is a city of 500,000 residents but it is a symbol in many ways of this great Nation and home to the Federal Government. Because of that, oftentimes on this bill—and we will experience that over the next couple of days—there will be some rigorous debates about issues surrounding this bill, which is understandable because this is a budget for a city but also a symbol.

I hope, as we move through the debate on this bill, that we can provide more light than heat, and I hope colleagues from both sides of the aisle will come to the floor with that in mind.

I want to begin my brief opening remarks saying that Senator DEWINE and I in many instances share not only the same views about the District, but we also share the same priorities, which makes for a great working relationship and very smooth operations. One of the subjects he and I feel very strongly about is committing to the financial stability of the city. We both recognize

the great work the Mayor, the City Council, and Congresswoman ELEANOR HOLMES NORTON have contributed, as have other officials who have the hands-on responsibility for the financial support and operations of the city. I commend them for their work.

This is particularly important because this city in just recent history was under the direction of a Control Board, established by this Congress because the city was in a huge deficit position. Mismanagement was rampant and that became necessary. Senator DEWINE and I served at the time when that Control Board has been moving out, so it has been an imperative, and our first priority, that the safeguards and guidelines and parameters that keep this city moving in the direction of surplus and strength continue. I am proud to say that we have accomplished that goal in partnership with the city leaders, who get the most credit for keeping their city in a strong financial position. That is so, even with the very difficult times the city has faced, in terms of being a target, in some cases the No. 1 target, of terrorism in the whole Nation.

Along those lines, one of my priorities, shared with the leadership as well as the other Members—Senator KAY BAILEY HUTCHISON, Senator DICK DURBIN from Illinois—we have put into this bill a \$25 million infrastructure investment because we want to be a strong, reliable partner for the financial security of the city. That is on top of the \$50 million that was put in last year, which helps one of the major infrastructure challenges of the city, which is to clean up the Anacostia River. We have to remember this region is a region of two rivers, not one. We hear a lot about the Potomac but not a lot about the Anacostia. Both are great and contribute a lot to the health and vitality of the region, and the cleaner these are, for esthetics, for health and recreation, is important.

The city cannot do this on its own. It is a regional effort, and we are proud to step up, in the place of a State because there is no State, to serve in that role on the budget, to help them with these great infrastructure needs. I am thankful for the allocation of funds for that effort to the chairman of the Appropriations Committee and the ranking member, Senator BYRD, who has been strongly in favor of this particular undertaking, which will cost hundreds of millions of dollars, to be done over the course of the next couple of years.

The next issue on infrastructure, briefly, is one on which we are making some progress. We have budget constraints and we do not have, as much as we would like, unlimited money. We have budget constraints because there is not much money, but wisely the chairman has allocated funds to infrastructure initiatives—parks, recreation, and some help with transportation. Again, transportation is not just a challenge for the District residents, but it is a real challenge for the

region. We have at least begun to lay down a small mark for help with transportation. I will get back to why that is so important at the end of these brief remarks.

Helping with the financial strength of the city, continuing to improve it, making sure the CFO is supported and his office is independent, streamline the management, and helping keep the city on a strong financial course is something I am proud of and is reflected in this bill.

The second important focus—and these are not in terms of priorities because they are all sort of equal, but I wanted to reflect, maybe, perhaps this is one we would agree is the top priority—is security for the Nation's Capital. Again, our bill reflects an ongoing commitment for investments in bioterrorism and investments, last year particularly, in the bill for interoperability for police officers in the District and the Federal agencies, as the District remains the No. 1 target in the Nation. That commitment is also found in this bill. It is an ongoing commitment I share with the chairman.

Senator DEWINE did a beautiful and thorough job describing the child welfare initiatives in this bill. I will not repeat what he said. I will only say thank you to the Washington Post, particularly, for continuing to bring to light the deficiencies in the child welfare system, to thank my own staff and all the Members who contribute, and to say the District of Columbia is not alone in its struggle with reforming its child welfare system and improving foster care and increasing adoptions and establishing a family court. All cities, all communities, and all States are struggling with those same challenges.

Because budgets are tight, when budgets are cut, the first things, of course, that are cut, in many instances, are the services for children and courts and judicial systems that help to support excellent child welfare services in the Nation.

We are trying to fight against those budget reductions, adding money to this bill, with accountability, with mandates for new management, and with a new system to try to increase reunifications where possible, so children are not separated endlessly from their families and to give those families support. If that is not possible—and in many instances, as the chairman knows, it is not possible—then to move those children quickly through a caring and loving system that enables those children to get safely into a new family who will raise and nurture and love them, and to minimize the time in foster care.

That is not done by waving a magic wand or by rhetoric or by bumper stickers or by slogans. There is no substitute for that kind of work other than just tough slogging in terms of new policies and new investments. No one has done that better than this chairman. I thank him for that. This

bill reflects a significant increase, in partnership with the District, working with them, to create a new court system, to create new opportunities in the child welfare system.

The fourth area the chairman and I focused a lot of time on, and I think we are making some progress, although it will be the subject of much of the debate on this bill, is in the area of education. I want to say what is in the underlying bill is a significant improvement over the shortsighted and very problematic education initiative that was placed in the House bill on the District of Columbia. What the chairman has laid down is a significant improvement over that shortsighted and problematic initiative which was basically a vouchers-only, take-it-or-leave-it approach by the House, which is going to be rejected pretty unanimously here in the Senate.

In its stead, there is a three-sector improvement approach offered by this bill which, in my opinion, still needs some significant work. But, as I said, it is a major improvement over the take-it-or-leave-it, vouchers-or-nothing approach by the House. The three-sector approach, as the chairman has outlined, is an equal amount of money distributed to charter schools, to public schools, and then to private scholarships for low-income children who are struggling.

Let me talk about charter schools for a minute and say something on the record. I will get back to this at a later time, when the debate gets underway.

There is not a district in this country, not one, not in Ohio, not in Louisiana, not California, not New York, that has made a stronger and better effort for charter schools than the District of Columbia, and that needs to go on the record as this debate starts.

There are more children per capita in charter schools in this District than any place in the Nation. With limited resources and with a relatively small jurisdiction, this community is making a superior effort in charter schools. Every one of them is excellent. We know they are trying new things that are important. They don't get enough credit for that. I want the Mayor and ELEANOR HOLMES NORTON, who has been a strong supporter of charter schools and public choice, and Mr. Chavez, members of the DC Council, and members of the school board who have supported this charter school initiative to feel proud of what they have done. They do not get as much credit as they should. Those charter schools provide a real choice and real opportunities.

I am proud that in the bill last year Senator DEWINE and I helped fund, at the request of many of our colleagues, the first urban boarding school for low-income children in the Nation—the first low-income boarding school for children in the Nation—so they can stay in school Monday through Friday and have an opportunity to go home on weekends, if they choose. Sometimes their home life is not conducive to academic excellence and achievement.

With accountability and oversight, we created that school. I am proud to say those children are extremely happy. And some of them were able to go to Greece because of the generosity of the Greek Ambassador. Nothing could thrill me more than to see real progress being made in opening up new educational opportunities for children.

The charter school movement is healthy and underway, and it doesn't need our criticism and it doesn't need our undermining; it needs our support.

The other leg of that is the investment in public schools. The progress is slower but it is still substantial, as is true of all major cities struggling with this issue throughout the country. But any number of improvements have been made. Later on in the debate, that information will be spread on the RECORD. But those two legs of the investment are universally supported.

There are additional investments. Leave No Child Behind does not meet the full requirements to which the District is entitled, but at least it is a \$13 million increase to help the public school system meet the new accountability requirements and excellence that we seek in all of our schools when we are using public funds, and to help support charter schools.

The piece on the scholarship program sector, as I said, needs improvement. But because it is a three-sector approach and not just vouchers and take it or leave it, it is far superior to the House provision. With some adjustment, it could potentially receive votes of some Members on the Democratic side and have universal support on the Republican side. We will get to that later in the day.

Let me say in closing that the last 2 years have been unprecedented in the amount of discretionary Federal dollars that have gone to this city. Just this year alone, this budget reflects \$124 million over the President's request for the District of Columbia. That is a substantial amount. That reflects the confidence that is being built in this Congress in the leadership of this city and the willingness to step out on issues that can help this city be the great city it was intended to be, and it is well on its way to being—across the board, whether it is in health care, transportation, public services, education, et cetera.

Nobody deserves more credit as a group than the city leadership collectively. They have done a very good job working together in that regard.

I close, however, with a challenge that Senator DEWINE and I are faced with this year; that is, the landmark report that this city faces a structural deficit of \$400 billion to \$401 billion between their revenue capacity and their cost of providing services. This report was done by an objective agency. It was conducted by the GAO at the request of Congresswoman NORTON and myself and others to really look at the structural deficit, if there were such a thing as a structural deficit, even

though the city is in surplus, even though they are moving in the right direction by streamlining their operations. If you look at the path for the next year or two, there are dark clouds on the horizon. We want to basically know what the reason is for those dark clouds. Is it something that is under the control of the city or the Congress to fix?

I will paraphrase the study and will submit it for the RECORD.

While the city could continue to adjust and streamline its practices and make sure that fraud and abuse are taken out of the system, there is in fact a structural imbalance. Even if they did that perfectly—and no city does—they still would have a structural imbalance because their tax base is strained to almost a breaking point. That means their sales taxes are high, their property taxes are high, their fees are high. To continue to go back to the residents of the District and ask them to contribute more would be detrimental to the economic growth and vitality of this city.

We have in this bill a marker—basically a \$3 million Federal share to contribute to the infrastructure, which is a small but I think substantial marker that the chairman and I are willing to lay down to say we understand there is a structural deficit, that we don't have the money right now to fix it, and that we are not even sure how to fix it nor have the answer but recognize there is one. Hopefully, that will be the subject of future hearings to help the city of Washington be the best city and the symbol for the Nation.

Finally, let me summarize. As the chairman said, this bill also includes \$172 million for the operation of the DC courts, an \$8 million increase over the President's request. We talked about that. There are certain things for which we are directly responsible. One of them is the Court Services and Offender Supervision Agency. I am very proud that the chairman has gotten that ratio down from 40 to 1 to 25 to 1, which will help. I again commend the Washington Post for their excellent series that helped to call our attention to this glaring and terrible problem. It is a tragedy that exists in the District. More work needs to be done.

But this bill and what it represents I think is a significant compliment to the city and its leadership. The considerable investment in the future for the residents of the District is something of which our people around the Nation can be proud.

I urge our colleagues as we move into the afternoon and the debate regarding education that we attempt to fill this Chamber with light and heat because this issue, the children who depend on our deliberations, their families, and the taxpayers deserve no less.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

# RECESS

Mr. DEWINE. Madam President, I ask unanimous consent that the Senate stand in recess until 1 p.m.

There being no objection, the Senate, at 12:10 p.m., recessed until 1:01 p.m. and reassembled when called to order by the Presiding Officer (Mr. HAGEL).

The PRESIDING OFFICER. The Senator from Ohio.

## DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2004—Continued

Mr. DEWINE. Mr. President, as we proceed with the District of Columbia appropriations bill, I again thank Senator LANDRIEU for her great work on this bill. We will be proceeding later on today on the issue of the District of Columbia vouchers. I thank Senator LANDRIEU for her contribution to this discussion.

We are working on some possible amendments, but I wish to take this moment, if I can, to also thank Senator FEINSTEIN for her contribution to that section of the bill. As I have stated publicly in the past—I said it yesterday in a press conference—that section of the bill which has to do with vouchers, the scholarship section was significantly improved because of what my colleague from California, Senator FEINSTEIN, contributed to the bill.

She came to me and Senator GREGG and said: I have some suggestions; I have some changes; I have some ideas that I think need to be in this bill to improve the bill, to bring more accountability; to ensure the bill's constitutionality; and also to make sure that the Mayor of the city of Washington is much more directly involved in running this scholarship program.

We took those suggestions from Senator FEINSTEIN. She drafted sections of the bill, and we incorporated them in the bill. Those changes are now in the bill that is now before the Senate. I appreciate very much her work.

I yield, without losing my right to the floor, for a question from Senator LANDRIEU.

Ms. LANDRIEU. Mr. President, I thank the Senator for his comments. He is correct that there have been some improvements made to this section of the bill, but it remains a work still in progress. There are many Members on the Democratic side and some Members on the Republican side who are still not comfortable with the language. There are some who are absolutely opposed to the underlying concept of private school vouchers or scholarships.

I thank the chairman for remaining open and working on some amendments and language. That is taking

place at this time. We will proceed with the debate later in the afternoon.

Mr. DEWINE. Mr. President, I take back my time. I look forward to working with Senator LANDRIEU to try to accommodate the concerns she has. I know she is well intentioned, certainly dedicated to the children of the District of Columbia, as I talked about earlier today.

I believe the bill before us is a good bill. I believe the scholarship program before us is a good scholarship program. I believe it is clearly constitutional. I believe it is a good program in the sense, as I discussed earlier this morning, that it is value-added. It is a balanced program. It is a program that provides a third of the money for scholarships for the children, \$13 million. This is all new money, \$13 million new money for the District of Columbia schools, and \$13 million additional money for charter schools. It is a three-pronged approach, a very balanced program. I think the language is good language. The bill before us is a good bill.

In deference to my colleague, with whom I have worked so very closely on this bill over the last few years, certainly we can take some more time to see if it is possible to reach any kind of compromise or accommodation with regard to any additional language that would satisfy her. I am more than happy to take some time to try to do that. I do believe we have a good bill right now. It is a bill that I think is good for the children of the District of Columbia.

Mr. WARNER. Mr. President, I rise today in support of the limited private school choice provisions in the District of Columbia Appropriations bill.

As you know, private school choice, also commonly known as a voucher, refers to the use of public money to allow a limited number of students to attend a K-12 private school.

As a strong supporter of our Nation's public schools, I certainly appreciate the views of those who believe that public money should be used to improve only public schools.

However, as a member of the Senate's Education Committee, I also strongly believe that if our educational system is to improve, as needed, we cannot remain stuck in the status-quo. We must look for innovative ways to improve our schools. While providing additional money into an educational system can help—money alone is never enough.

I commend the Mayor of Washington, DC—Mayor Anthony Williams—who along with others have all come together in support of an innovative idea to improve the educational system in the District of Columbia: an infusion of money into the public school system along with a limited private school choice option for the District of Columbia.

How fortunate we are to have the leadership of Mayor Williams in the District of Columbia.

The legislation before us does just what Mayor Williams has requested. It adds an additional \$40 million in education spending in the District. \$27 million of that \$40 million will go to the District's public schools and charter schools. The remaining \$13 million will be used for the limited private school choice option provided in this bill.

And while some may be critical of spending \$13 million on private school choice, I believe it is important to view this money in the context of other education spending.

In comparison to the \$13 million we will spend in this bill on private school choice, the Federal Government currently spends about \$12.5 billion on the Pell Grant program. And as we all know, the Pell Grant Program provides grants to students to help them afford the cost of tuition at an institution of higher learning, regardless of whether the institution is a public or private one.

Similarly, the proposal before us today will allow certain low-income students in the District to attend private K-12 school.

More specifically, the school choice provisions in this legislation will provide scholarships of up to \$7,500 to allow 2,000 low-income students the opportunity to attend private school.

These scholarships will be sufficient in dollar amount to cover the cost of tuition at approximately two-thirds of the private schools in the District. It is my hope that the remaining one-third of private schools in the District, whose tuition is more expensive than \$7,500 a year, will consider making special exceptions to also open their doors to the low-income students in the District who are scholarship recipients.

In my view, the proposal supported by Mayor Williams and put forth in this legislation is a win-win situation. The school system gets more money and low-income students are given a unique educational opportunity.

Over 50 years ago, I was given a similarly unique opportunity to obtain a quality education as I was a recipient of the GI bill. The education that I was fortunate enough to receive as a result of the GI bill has allowed me to achieve most of the dreams to which I have aspired. Without the GI bill, I certainly would not be standing here today.

Similarly, the private school choice proposal before the Senate today will provide certain students in the District with an opportunity to receive a strong education. And, along with that education, these scholarships will provide these students the same opportunity I had to achieve my goals in life.

I commend the work and leadership of the chairman, Senator DEWINE, my colleague in the Virginia congressional delegation, TOM DAVIS, Mayor Anthony Williams, the local media, and other philanthropists and community leaders who have worked closely together in support of this private school choice initiative.

It is my intention to support this limited private school choice initia-

tive, and I urge my colleagues to do the same.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate be in a period for morning business until 2 p.m.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. DEWINE. Madam President, I ask unanimous consent that the Senate remain in morning business until 3 o'clock.

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

Mr. DEWINE. 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.

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

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

Mrs. FEINSTEIN. Madam President, I ask unanimous consent to speak for up to 10 minutes.

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

Mrs. FEINSTEIN. Thank you very much, Madam President.

#### DO NOT CALL REGISTRY

Mrs. FEINSTEIN. Madam President, I come to the floor because I have just learned of a decision made by an Oklahoma district judge that the National Do-Not-Call registry is invalid. This is amazing to me.

This is the result, apparently, of a lawsuit filed by the Direct Marketing Association, U.S. Security, Chartered Benefit Services, Global Contact Services, and in InfoCision Management Corporation challenging the Federal Trade Commission's authority to implement the wishes of millions of

Americans who have gone on the Federal Trade Commission's web site and signed up to say to telemarketers they don't want to be called.

I would like to read into the RECORD a statement of FTC Chairman Timothy Muris. He said:

Late last year, the Federal Commission issued rules creating the National Do Not Call Registry under the Telemarketing and Consumer Fraud and Abuse Prevention Act. On February 13, 2003 the Congress passed the Do Not Call Implementation Act, which authorized the FTC to collect fees from sellers and telemarketers to "implement and enforce the provisions relating to the 'do-not-call' registry." The President signed this bill on March 11, 2003. Moreover, on February 20, 2003, the President signed the Omnibus Appropriations Act, which authorizes the FTC to "implement and enforce the do-not-call provisions of the Telemarketing Sales Rule."

Despite this clear legislative direction, the U.S. District Court for the Western District of Oklahoma has ruled that the FTC exceeded its authority in creating the National Do Not Call Registry.

This decision is clearly incorrect. We will seek every recourse to give American consumers a choice to stop unwanted telemarketing calls.

This registry is due to go into effect in a week. A Federal judge has essentially prevented it from going into effect. In a week, tens of millions of Americans who have registered their names not to be called by telemarketers are going to find out that it is all a myth. They are going to get called in any event. I think they are going to be very angry.

I also believe this decision strikes a blow against the basic privacy interests of millions of Americans. Presently, these people are subjected to unwanted marketing calls to their homes at all times of the day, including the dinner hour. The FTC's Registry will give Americans who want to avoid these unsolicited sales pitches an option to stop their telephone from ringing.

As I mentioned, tens of millions of Americans have registered more than 50 million phone numbers for this program. Ultimately, the Federal Trade Commission expects 60 percent of the Nation's households with approximately 60 million home phone lines to sign on to the registry. This registry is crucial because it puts consumers in charge of the number of telemarketing calls they receive. Telemarketers who disregard the Registry could be fined up to \$11,000 per call.

The district court today ruled that the Do Not Call Registry is "invalid"—that is the word the judge used in his decision—because it was created without congressional authority.

This conclusion I find surprising since Congress passed H.R. 395, the Do-Not-Call Implementation Act on February 13th of this year. The legislation clearly authorizes the Federal Trade Commission and the Federal Communications Commission to collect fees sufficient to implement the Registry. And the Appropriations Committee granted \$18 million for the program.

I also note that the FTC's rule came after the most extensive deliberations. The FTC announced its plan to proceed with the Registry on December 18, 2002, after receiving 64,000 comments. The overwhelming majority of these comments favored the creation of the Registry. Millions of Americans were promised protection from annoying, unwanted telemarketing calls starting October 1. They are truly going to be outraged by this.

There are two ways of going about this. The first is to let the FTC appeal the case, which they have just said they are going to be in the process of doing. The other is to perhaps unanimously adopt and pass legislation which clearly authorizes, specifically authorizes—and in bold letters authorizes so that no Federal judge can misunderstand it—and get this done as quickly as we can. I have asked my Judiciary counsel to prepare this legislation. We will be submitting it before the end of the day.

I would like to invite all of my colleagues to join as cosponsors. Then, hopefully, we will be able to move this through very quickly, particularly in view of the fact that we believed we did authorize it earlier, the President did sign it earlier this year, and we believed it was a concluded issue.

I ask unanimous consent to have printed in the RECORD the judgment of the Western District Court of Oklahoma which finds that the portion of the final amended rule that pertains to the National Do Not Call Registry is invalid.

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

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

U.S. SECURITY, ET AL., PLAINTIFFS, VS.  
FEDERAL TRADE COMMISSION, DEFENDANT

NO. CIV-03-122-W—JUDGMENT

Pursuant to the Order filed this date, the Court finds that judgment should be and is hereby entered as a matter of law in favor of the plaintiffs, U.S. Security, Chartered Benefit Services, Inc., Global Contact Services, Inc., InfoCision Management Corporation and Direct Marketing Association, Incorporated, on the plaintiffs' claims that that portion of the Final Amended Rule that pertains to the national do-not-call registry is invalid. The Court further finds that judgment should be and is hereby entered as a matter of law in favor of the defendant, Federal Trade Commission, on all remaining claims asserted by the plaintiffs.

Dated at Oklahoma City, Oklahoma, this 23rd, day of September, 2003.

Lee R. West, *United States District Judge*.

Mrs. FEINSTEIN. Madam President, I have concluded within the 10 minutes. I thank the Chair. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2004—CONFERENCE REPORT

Mr. COCHRAN. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 2555.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Madam President, reserving the right to object, we have been in touch with Senator BYRD, who is co-manager of this bill, and he has no objection to proceeding to this conference report. He simply wants to be able to be heard prior to our scheduling a vote on adoption of the conference report.

I have no objection.

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

The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2555), making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same, with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 23, 2003.)

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, it is my honor and pleasure to present for the Senate's approval today the conference report on H.R. 2555, the fiscal year 2004 Homeland Security Appropriations Act. As all Senators know, this is an historic occasion. Not only is this the first appropriations bill for the new Department of Homeland Security, but it is also the first of the 13 fiscal year 2004 appropriations bill conference reports to be presented to the Senate.

The conference agreement provides total new budget authority for the new Department of \$34.9 billion, including \$4.7 billion in advance appropriations for future fiscal years. Of the amount provided for fiscal year 2004, \$29.4 billion is for discretionary programs. This is approximately \$1 billion more than the level requested by the President. It is also \$890 million more than the Senate-passed bill level, due to inclusion in the conference report of \$890 million in fiscal year 2004 funding for bio-defense countermeasures, so-called BioShield, as recommended in the House bill and the President's recently submitted revised budget request.

To further strengthen the capacity of the Nation's first responders to prepare for and respond to possible terrorist



threats and other emergencies, this conference report provides a total of \$4.037 billion for the Office of Domestic Preparedness. This includes \$1.7 billion for the State and local formula-based grant programs; \$500 million for law enforcement terrorism prevention grants; \$725 million for high-threat, high-density urban area grants; and \$750 million for the firefighter assistance grant program which will remain a stand-alone program.

The conference report also includes \$180 million for emergency management performance grants which will be managed by the Emergency Preparedness and Response Directorate.

The conference report includes a total of \$4.5 billion for the Transportation Security Administration. Air cargo security was a priority of the conference committee, as evidenced by the fact that the conference report provides \$85 million for air cargo security, which is \$55 million higher than the President's request. This funding will allow the Department to enhance its efforts to identify and prohibit the transportation of high-risk cargo on passenger aircraft as well as to advance efforts to research, develop, and procure the most effective and efficient air cargo inspection and screening systems.

Additionally, \$8.6 billion is provided for the defense of our borders; \$9.1 billion for emergency preparedness and response; \$6.8 billion for the Coast Guard; and \$1.5 billion for research, analysis, and infrastructure protection.

The conference committee met and completed action on Wednesday of last week, and the conference report was filed yesterday, September 23. It was adopted by the House of Representatives earlier this afternoon by a vote of 417 yeas to 8 nays. Senate passage of this conference report today is the final step necessary to send this fiscal year 2004 appropriations bill to the President for his signature into law before October 1, the beginning of the new fiscal year.

I must acknowledge the assistance and important work by the ranking member of the subcommittee, the distinguished Senator from West Virginia, Mr. BYRD; also the chairman of the House committee, Mr. ROGERS, and the ranking member of the House subcommittee, Mr. SABO, for their substantial contributions to the development and writing of this bill throughout the year.

We began the year with extensive hearings, reviewing the proposals for the budget of all of the directorates and the individual agencies that are funded in this bill, which includes the Secret Service, the Coast Guard and others. A lot of time has been devoted to understanding the missions and responsibilities of the 22 Federal agencies that were brought under the jurisdiction of the new Department of Homeland Security.

We have also worked closely and consulted with the distinguished Secretary

of the Department, Tom Ridge. In my judgment, Secretary Ridge is doing an excellent job of starting up this new Department, understanding the importance of the mission, and helping our country prepare for and prevent terrorist attacks, and prepare for and respond to natural disasters.

The chairmen and ranking members of the full committees have also been very helpful in the development of this legislation. We want to express our appreciation for their good work and their important assistance.

It is with pleasure and honor that I recommend to the Senate the adoption of this conference report.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, I understand other Senators, including Senator BYRD, may be speaking on this and will be here in a few minutes. I thought I would take the opportunity to make some comments on a specific provision in this conference report.

First, I am pleased that the Senate is considering this very important appropriations conference report for the new Department of Homeland Security, and I am pleased that the chairman of this subcommittee is my colleague from Mississippi. He has shown real leadership and stamina in getting this done, bringing it to the floor of the Senate, and holding the line on making sure that what we spend is what we need, a reasonable amount, and not allowing it to spiral out of control, which it could have very easily.

He deserves a lot of credit. It went right into conference and secured an agreement. This is going to be one of the appropriations bills that gets to the President for his signature early. That is the way this process should be done, because it is going to be finished before the beginning of the next fiscal year. There are not many appropriations bills that are going to do that this year or in most years.

I do have a concern and am disappointed with a particular provision in this conference report that affects the FAA reauthorization conference report. As chairman of the Aviation Subcommittee, we had extensive hearings, as I know this appropriations subcommittee did as well, in developing the legislation that led to the FAA reauthorization bill. It became very clear early on that one of the major issues that we had to confront was how to pay for security capital costs at airports. We have additional costs. There are additional costs. Many of the airports' lobbies are crowded because they have the new equipment that has been installed there to scan our luggage. A lot of additional costs have been heaped on the airports, local authorities, and, as a matter of fact, the TSA, the Transportation Security Administration.

The majority of the costs they are dealing with in the airports themselves are associated with modifying the airports to install explosive detection systems so that the baggage can be fully

screened. Eventually, we will have to move them out of the lobbies because we have lines in airports now outside the buildings. That equipment is going to have to be moved.

The estimated cost associated with these modifications ran up to as much as \$5 billion. I must say I gulped when I heard that. I have asked a lot of questions about just how much is needed and how are we going to fund it. That was the natural question to come up.

In the immediate aftermath of 9/11, as we worked aggressively to deal with tighter security at airports, the TSA was allowed to take \$500 million out of the Airport Improvement Program. Those funds are supposed to go for improving the airports, for aprons, runways, security fences. But that money was diverted, \$500 million of it, out of the normal AIP program into the security area.

The Transportation Security Administration came before the committee and said: We are going to need another \$500 million, and we are going to need more and more and more. We made it clear that they could not take another \$500 million bite out of the airport improvement program, which is what they intend to do. But we do see that we need probably at least \$250 million a year to help airports fund these important security projects. So we had to also come up with a way to provide that money.

The way that has been done is a \$2.50 security fee that has been assessed on all airline passengers. The airlines will tell you that the passengers are not paying that fee. They are just having to absorb it. Because if they raised ticket prices even a little bit, that would affect decisions that passengers make to go a different way or go on some other airline. So they maintain they are having to eat that fee. Regardless, the actual fee is supposed to be on the passengers.

I have some problems with that, particularly when you look at how that money is really being paid. It is a tremendous cost that is one of the issues affecting our airline industry and the ability of airlines to make a profit and to stay in business.

So I actually considered the idea of eliminating this fee. The other side of the coin is that we have to come up with some way, if we are going to provide for these security changes, to pay for them. While I think everybody has a responsibility to assume some of the cost—the Federal Government and local governments, perhaps, and airport authorities—the people themselves are getting additional security. So we decided to leave the fee in place.

Now, in my view, that is kind of like the highway trust fund. It is a fee charged for a specific purpose: aviation security. It should be used for that purpose, and that purpose should include airport security. For years, the highway trust fund money was held in the trust to make the deficit look lower than it really was. It was also quite

often used in ways other than highways and bridges, and it has continued to change. On the last highway bill, we had a big discussion about that. The budget people wanted to keep some of that money in the trust fund to help with the budget numbers; the appropriators didn't want to mandate that that money be spent, even though we needed highways and bridges. We came up with a compromise that the Budget Committee and appropriators could live with, and we spent more money and built more roads and bridges.

This is how I view a fee being paid for security at the airports. We said it would go into a fund where it would be earmarked for that purpose. The Appropriations Committee indicated that that was a problem for them because they don't like, understandably, that this money is earmarked in a particular area. They say the Appropriations Committee will look at that and make those decisions. Therefore, in the Homeland Security conference report, even though I thought we had worked our disagreement out, we originally had a fund of \$500 million and we went to \$250 million, leaving money that could be used for discretionary purposes, the appropriators chose to override the authorizing committee. That is the way it went through the Senate, with Senator COCHRAN raising concerns at the time the FAA Reauthorization was on the floor, but I thought it was with an understanding to allow the process to move forward.

Now the conference report knocks that provision out—it is kind of novel because the appropriations conference report knocks out a section in a bill that has not yet been passed. That was a little unusual, I thought. But I do think money that is paid by the passengers as a security fee for purposes such as airport security should be spent for that purpose, at a level designated by the authorizing committee. It should not be left to the discretion of the appropriators or anybody else to spend it at a level they see fit, although they may be spending the money on justified programs in other aviation areas of the Transportation Security Administration.

So I am concerned about this. This bill is too important for our country, it affects too many people, and there are too many things to be delayed. I would not do that. I wanted to go on record expressing my disappointment particularly in this section—how it was done—and say that if we are not going to mandate spending this money for airport security, it would be my desire to eliminate the fees. That may be where we will have to go next year. For now, this is a small part of a very large bill, although I think it is an important one. I had to raise my concerns and my objections, while not being prepared, of course, to delay this important legislation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi, Mr. COCHRAN, is recognized.

Mr. COCHRAN. Madam President, I appreciate the comments made by my good friend and State colleague, who is chairman of the Aviation Subcommittee.

When the FAA bill was on the floor, I offered an amendment to strike that language, which would have reduced resources available to meet the Department of Homeland Security requirements for aviation security. That amendment was adopted without an objection.

Madam President, I would like to briefly explain the order in which these events occurred and the reason for providing the funding prohibition that was included in this conference report.

On June 12 the Senate considered H.R. 2115, the Vision 100-Century of Aviation Reauthorization Act reauthorizing Federal Aviation Administration (FAA) activities. The FAA reauthorization bill contained language that established a new entitlement for the Transportation Security Administration, an Aviation Security Capital Fund, by earmarking the first \$500 million derived from the aviation security service fees which are currently available and relied on as an offset to funding appropriated by Congress for aviation security.

This provision would have directed \$500 million used by the Transportation Security Administration to offset the funds appropriated by Congress for aviation security. During consideration of the bill, I offered an amendment with Senator BYRD that would instead "authorize to be appropriated to the Fund up to \$500 million for each of the fiscal years 2004 through 2007" for security improvements at our Nation's airports.

This amendment was adopted by the Senate without objection. However, when the FAA reauthorization bill was reported from conference, the language of that amendment was reversed. The conference agreement included \$250 million in direct spending, not subject to appropriation, to be taken from the offsetting fee collections. The concerns raised that the Department of Homeland Security would have to take a cut in its budget for aviation security to offset this new entitlement were not taken into consideration.

There is no argument that our nation's airports need the resources to make structural changes for the safety and security of the traveling public. We have provided funding to address these needs in this conference report. We would not have been able to do this without the inclusion of the provision prohibiting the reduction of offsetting collections.

I ask unanimous consent at this point that a letter to me from the Secretary of the Department of Homeland Security on this subject, dated June 11, be printed in the RECORD.

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

U.S. DEPARTMENT OF HOMELAND SECURITY, OFFICE OF THE SECRETARY,

Washington, DC, June 11, 2003.

Hon. THAD COCHRAN,

Chairman, Subcommittee on Homeland Security, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Administration appreciates the continued support of Congress for improvements in the security of the Nation's civil aviation system and supports Senate passage of S. 824, the Aviation Investment and Revitalization Vision Act (Air-V). However, the Administration opposes a provision in S. 824 that would divert fees collected for security activities for purposes other than the provision of direct security services.

With the Homeland Security Act of 2002, Congress identified the Department of Homeland Security (DHS) as the focal point of the federal government's homeland security efforts, with the mission of preventing terrorist attacks and reducing the nation's vulnerability to terrorism. While the Department welcomes and appreciates the assistance of other agencies in improving security, any diversion of security fees, such as that proposed in S. 824, would directly undermine the Department's ability to fulfill its mission. Air-V would establish an Aviation Security Capital Fund that is both outside the control of the Department and funded by diverting \$500 million per year of passenger and air carrier security fees collected by the Transportation Security Administration (TSA). This would diminish the Department's funding capacity. As you know, the direct annual costs of operating the aviation security system are not fully offset by these fees, and diverting fee revenue for other purposes clearly weakens the intended financing structure of TSA set forth in the Aviation and Transportation Security Act. Diversion of the fees into a fund outside of DHS undermines the ability of the Administration to apply these resources to the most pressing security needs.

The Administration looks forward to working with Congress to ensure that the version of the bill presented to the President eliminates this objectionable provision.

The Office of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of these views for the consideration of the Congress.

Sincerely,

TOM RIDGE.

Mr. COCHRAN. I think it is important for us to continue to discuss and consider the appropriate way to deal with these fees and funds that are used for airport security. I assure my friend from Mississippi that I want to consider his suggestions and thoughts, and those of his committee, as we proceed in the administration of these programs. I want to see that the fees are fair for the airlines, fair for passengers, that they achieve the results we all want, which are improved airport security and the security and safety of the traveling public. I hope we can do that and work out an appropriate way of handling this issue in the future.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, it seems to be the ill fortune—the ill fortune—of the present occupant of the chair to have to find himself in the chair when I make speeches. It seems that every time I make a speech, the Senator from Texas is in the chair.

Well, I am glad to see him there. He is a good Presiding Officer. He is alert to what is going on on the floor. He listens, and he is always very pleasant, congenial, and I congratulate him, because sitting in the chair while I speak makes it very difficult for any Senator to carry on his other necessary activities—the work in his office and meeting with constituents and so on. So I not only congratulate him, I also thank him.

Mr. President, this afternoon, the Senate finds itself with the first Homeland Security appropriations conference report before it. I thank Senate Chairman THAD COCHRAN, House Chairman HAROLD ROGERS, and the ranking member on the House Homeland Security Subcommittee, Representative MARTIN SABO, and all of the House and Senate conferees for their hard work on this important legislation. We all share the goal of ensuring that the new Homeland Security Department has the resources it needs to secure the homeland.

The conference report that is before the Senate provides \$29.4 billion for discretionary programs for fiscal year 2004 for the new Department. With the limited resources that were made available under the budget resolution, the conference agreement is fair and balanced. And so much of that is due to the fair and balanced approach that the distinguished chairman here, Senator THAD COCHRAN, always displays. It comes as a habit to him. It is just second nature.

This bill provides a \$1 billion increase over the President's request, and it makes a number of significant improvements in the organization of the Department.

In particular, I am pleased that the conference agreement includes language that will ensure that the new airline passenger screening system, known as CAPS II, will not be deployed before February 15, 2004, until the General Accounting Office has had the ability to review and report on the personal privacy protections, including an appeal process for individuals who are prevented from flying because the system has identified them as a security risk.

Funds are included, consistent with the Senate bill, to enhance border security—none of which were requested by the President—including funds for an additional 570 Border Patrol agents and funds to establish a northern border air wing.

Mr. President, \$60 million is included to begin the development of an antimissile device for commercial aircraft.

The conference agreement restates both House and Senate language regarding full funding of antidumping enforcement provisions as well as calling on the Bureau of Customs and Border Protection to rigorously enforce trade laws pertaining to steel imports.

The conference agreement is good for disaster-prone States. The bill contains \$200 million for flood map modernization, which is the largest amount ever appropriated for this account. Further, the bill strikes a balance between premitigation and postmitigation grants. The bill contains \$150 million for predisaster mitigation grants, so that States have access to funds that help them to plan for and prevent damage from disasters.

The bill also continues to fund postdisaster mitigation, which is made available to States as a percentage of disaster relief money received from FEMA. The President had proposed to eliminate funding for postdisaster mitigation.

The conference agreement provides \$180 million for emergency management performance grants. These grants allow States and localities to develop basic emergency preparedness and response capabilities. This program is the only Department of Homeland Security grant program that is focused on all hazards, such as terrorist attacks, floods, and building collapses. The administration had recommended rolling this program into the ODP State grants program.

As Hurricane Isabel confirmed, we must make sure that this new Department of Homeland Security maintains its ability to respond to natural disasters, while preventing and responding to terrorist attacks. These are all significant improvements over the program proposed by the President.

Regrettably, even with these improvements, the conference agreement leaves significant gaps in the security of our homeland. After 9/11, Congress passed the PATRIOT Act, the Maritime Transportation Security Act, the Aviation and Transportation Security Act, and the Enhanced Border Security Act. The President signed these measures with great fanfare, but the President has done little to fulfill the promise of those laws.

The inadequate allocation given to the subcommittee has forced the conferees to underfund a number of these critical new authorities.

Last Wednesday, I offered an amendment in conference to add \$1.25 billion of emergency funding to the bill to secure the homeland by funding some of the authorities that the President had signed into law after 9/11 but failed to fund. The amendment included funding for port security, aviation security, chemical security, first responder grants, and for the Coast Guard Deep-water Program. The White House opposed and the Republicans rejected the amendment.

On the same day, last Wednesday, the President sent to Congress a supple-

mental request for his war in Iraq that totals \$87 billion. No funding was requested to help secure our homeland. Yet included in his request was \$20.3 billion for the reconstruction of Iraq, of which \$5.1 billion is for homeland security in Iraq.

If my amendment had been approved, the conference report that is before the Senate would have included \$125 million more to hire 1,300 more Customs inspectors on our U.S. borders, \$200 million more for first responder grants to equip and train police and firefighters here at home, and \$100 million for the U.S. Coast Guard to secure our ports.

Instead, next week, the Senate will be considering the President's request for reconstructing Iraq, including \$290 million for Iraqi fire departments; \$150 million for Iraqi border enforcement, including 2,500 customs inspectors; \$150 million for an Iraqi "911" emergency system; \$499 million for Iraqi prisons; and \$82 million for an Iraqi coast guard.

I continue to maintain that the Senate should take some time to review the President's supplemental request for the cost of the war in Iraq. We should hold further hearings in the Senate Appropriations Committee. We should hear from outside witnesses, not just administration witnesses. The Senate should not act as a rubberstamp for any President. I find it more than ironic that the Bush administration would oppose homeland security protections for American citizens but ask Congress to express dollars to Iraq for security efforts there.

With regard to the Homeland Security conference report that is before us, I again thank Chairman COCHRAN and his staff for their hard work in producing the first Homeland Security appropriations conference report. I also thank my own staff in this regard, and I thank all of the subcommittee members on both sides of the aisle and their staffs as well. While this conference report does not include sufficient resources to fund many of the new homeland security programs that this Congress authorized in response to the attacks of 9/11, it is a significant improvement over the President's request. I support its adoption.

The chairman would have done more if he had had more funds with which to do it. I again thank him for his many courtesies. I thank the floor staff and the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from West Virginia for his kind words, his compliments to me and the members of our staff. He also devoted a great deal of personal attention and effort to the development of this legislation, and his experience and good judgment have been invaluable in the presentation of this conference report to the Senate today.

I know of no other Senators who are seeking to speak on the conference report at this time. Not wanting to leave anyone out of the debate who wants to join in, 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. COCHRAN. 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. LEVIN. Mr. President, I will support the Homeland Security appropriations conference report today because this funding is vital to our first responders and all of those responsible for protecting us. I am disappointed that the conference committee rejected additional funding for first responders, port security grants, aviation security, additional Customs inspectors at our borders and other protective measures. At a time when homeland security should be a top priority, we should not be underfunding these programs.

In addition to inadequate funding, the grant formula that is used to distribute funding under the Office of Domestic Preparedness State Homeland Security Grant Program is inequitable and needs to be changed. This program distributes funds using a minimum State funding formula that arbitrarily sets aside a large portion of the funds to be divided equally among the States, regardless of need. Many Federal grant programs provide a minimum State funding level to ensure funds reach all areas of the country. But the State minimum formula in this Department of Homeland Security appropriations bill, which is taken from the USA Patriot Act and sets aside 0.75 percent of the total funds as a base for each State, is unusually high and therefore inequitable. I will continue to work to change this formula so that funding is allocated in an equitable and reasonable manner.

I am also disappointed that this bill does not sufficiently address a problem known as "corporate inversions." As young men and women are putting their lives on the line for us and our country, some corporations have put profits before patriotism by pretending to reincorporate in Bermuda or some other offshore tax haven to avoid paying their fair share of U.S. taxes. This process is called corporate inversion. It is unfair, it is founded on a deception, it mistreats the average American taxpayer, and it undercuts U.S. corporations that do pay their taxes. A company simply set up a shell headquarters in a tax haven, while all the benefits of living in America remain, all the benefits we would hope to provide in this bill—for instance, protection, homeland security, police, fire, port security. They take advantage of all the other services which are provided to these particular corporations. But because a shell headquarters has

been opened up for a few of these corporations in Bermuda, they have avoided paying taxes.

I am disappointed that the conferees chose to allow a special benefit to these unpatriotic companies to continue to exist. Back in July, when this body debated the bill before us, the Senate adopted the amendment I offered with Senator REID that disqualified these unpatriotic companies from competing for homeland security contracts. Unfortunately, the conference committee dropped this amendment from the bill, so those who have engaged in these so-called inversion transactions in past years can still enter into homeland security contracts.

They continue to use our roads and our law enforcement, our education system. They use our free-trade laws. But then they avoid paying taxes by opening up a post office box and a computer in a tax haven.

Inversions are unfair to the taxpayers who are left holding the bag and unfair to the U.S. companies that are doing the right thing by not inverting but who nevertheless are at a competitive disadvantage because of these sham moves. Those that engaged in these specious inversion transaction in past years can still enter into homeland security contracts—the current prohibition in the law only applies to future inverters, not those that did so previously. The competitive advantage these inverters enjoy vis-a-vis every other U.S. company, therefore remains undisturbed.

Senator REID and I, along with other of our colleagues, have introduced a bill that would deny tax benefits to U.S. companies that invert by continuing to treat them as U.S. companies for tax purposes. This bill would not only level the playing field between these companies and their U.S. competitors, it would also save other U.S. taxpayers from having to make up an estimated \$4.9 billion in lost tax revenues over the next 10 years.

I hope that we will soon have an opportunity to act on this legislation in order to address this problem.

Mr. NICKLES. Mr. President, today we are considering the conference report to accompany H.R. 2555, the Homeland Security appropriations bill for fiscal year 2004.

I commend the distinguished chairman and ranking member. They and their staffs need to be congratulated on successfully reporting and conferring the very first Homeland Security appropriations bill.

The pending bill provides \$30.2 billion in total budget authority and \$31.0 billion in total outlays for fiscal year 2004. The Senate bill is \$1.4 billion in BA and outlays above the President's budget request.

The pending bill funds the program of the Department of Homeland Security, including the Bureau of Customs and Border Protection, the Bureau of Immigration and Customs Enforcement,

the U.S. Coast Guard, the Transportation Security Administration, the U.S. Secret Service, the Office for Domestic Preparedness, and several other offices and activities.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

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

H.R. 2555, DEPT. OF HOMELAND SECURITY APPROPRIATIONS, 2004: SPENDING COMPARISONS: CONFERENCE REPORT

(Fiscal year 2004, in millions of dollars)

|                                       | General purpose | Mandatory | Total  |
|---------------------------------------|-----------------|-----------|--------|
| <b>Conference Report:</b>             |                 |           |        |
| Budget authority .....                | 29,411          | 831       | 30,242 |
| Outlays .....                         | 30,110          | 847       | 30,957 |
| <b>Senate 302(b) allocation:</b>      |                 |           |        |
| Budget authority .....                | 28,521          | 831       | 29,352 |
| Outlays .....                         | 29,737          | 847       | 30,584 |
| <b>2003 level:</b>                    |                 |           |        |
| Budget authority .....                | 28,269          | 889       | 29,158 |
| Outlays .....                         | 27,558          | 818       | 28,376 |
| <b>President's request:</b>           |                 |           |        |
| Budget authority .....                | 28,004          | 831       | 28,835 |
| Outlays .....                         | 28,581          | 847       | 29,428 |
| <b>House-passed bill:</b>             |                 |           |        |
| Budget authority .....                | 29,411          | 831       | 30,242 |
| Outlays .....                         | 30,500          | 847       | 31,347 |
| <b>Senate-passed bill:</b>            |                 |           |        |
| Budget authority .....                | 28,521          | 831       | 29,352 |
| Outlays .....                         | 29,737          | 847       | 30,584 |
| <b>CONFERENCE REPORT COMPARED TO—</b> |                 |           |        |
| <b>Senate 302(b) allocation:</b>      |                 |           |        |
| Budget authority .....                | 890             | .....     | 890    |
| Outlays .....                         | 373             | .....     | 373    |
| <b>2003 level:</b>                    |                 |           |        |
| Budget authority .....                | 1,142           | (58)      | 1,084  |
| Outlays .....                         | 2,552           | 29        | 2,581  |
| <b>President's request:</b>           |                 |           |        |
| Budget authority .....                | 1,407           | .....     | 1,407  |
| Outlays .....                         | 1,529           | .....     | 1,529  |
| <b>House-passed bill:</b>             |                 |           |        |
| Budget authority .....                | .....           | .....     | .....  |
| Outlays .....                         | (390)           | .....     | (390)  |
| <b>Senate-passed bill:</b>            |                 |           |        |
| Budget authority .....                | 890             | .....     | 890    |
| Outlays .....                         | 373             | .....     | 373    |

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.  
Prepared by SBC Majority Staff, 9/24/2003.

Mr. NICKLES. Mr. President, the conference agreement on the fiscal year 2004 appropriations bill for the Department of Homeland Security includes funding for the Project Bio-shield proposal, a \$5.6-billion initiative proposed in the President's 2004 budget to develop and purchase countermeasures to combat public health threats.

The appropriation itself is very unusual, providing 10 years' worth of discretionary program funding all at once, with \$890 million for 2004 and essentially a gigantic \$4.7 billion "advance" appropriation to cover the next 9 years. Further, this funding is being provided without authorization, since that bill, S. 15, has been blocked from consideration in the Senate by a small minority of Senators.

I am very concerned about appropriating this much money for any purpose without a proper authorization. I am equally concerned about protecting the integrity of the budget due to the proposal's unconventional use of advance appropriations authority. It is rare to provide 10 years' worth of appropriations to a program in one fell swoop, and it opens the door to future "piggy-banking" or redirection of those funds.

My colleagues may remember that Congress decided in the 2001 budget resolution to begin limiting the use of advance appropriations since they had become a way to avoid annual spending limits. The potential to abuse advance appropriations for scoring purposes was never more clearly illustrated than with the recent consideration of the Labor-HHS appropriations bill in the Senate, as amendment after amendment altered the timing of advance appropriations and claimed it as an "off-set."

Since the potential for redirecting, rescinding, delaying, or accelerating the \$4.7 billion Bioshield advance appropriation presents too great a temptation, the HELP Committee Chairman JUDD GREGG is working with me to prevent these abuses by creating a new scorekeeping rule to protect the unique purpose of this funding. The rule would ensure that any funding for Bioshield will be spent on that program, or not spent at all, by providing that any legislation changing the availability of the funds will not be scored for purposes of budget enforcement. However, until the authorization bill including our protections is enacted, the budget remains at risk.

Since the President originally requested that Bioshield be a mandatory spending program, the 2004 budget resolution did not provide for its consideration as a discretionary spending program. Thus, my colleagues should be aware that its inclusion in this bill subjects the entire bill to a 60-vote point of order.

I plan to take whatever steps are necessary this year, and in next year's budget resolution, to ensure that this program is properly authorized and that the integrity of the budget is protected. I look forward to working with our leader and my fellow committee chairmen in this regard.

Mr. MCCAIN. Mr. President, the primary purposes of the Department of Homeland Security, DHS, are to prevent terrorist attacks within the United States; to reduce America's vulnerability to terrorism; and, to minimize the damage and recover from attacks that may occur. The fledgling agency has begun to address many of the challenges presented it, including the monumental restructuring of 22 domestic Federal agencies. The Appropriation Committee's role is to provide the DHS the funds necessary to continue to carry out its important missions. I am pleased that, in this first homeland security appropriations bill, the agency's priorities were, for the most part, placed above the special interests'.

The conference report and the accompanying Statement of Managers is relatively free of objectionable provisions. There are, however, a couple of provisions that merit the attention of my colleagues.

One such provision would prohibit any funds from being used to implement section 44922(h) of title 49. Inter-

estingly, there is no such section under existing law.

So why have the appropriators taken action to prohibit the implementation of a provision of law that doesn't exist? Well, the FAA reauthorization conference report, which has yet to be voted on by the full Senate, includes such a section that we expect will become law as soon as we can take final action on the bill and send it to the President for his signature.

The FAA reauthorization conference report provision would provide \$250 million per year to airports for capital costs associated with security at our Nation's airports. We received testimony during our many oversight hearings on aviation security that such costs could total almost \$5 billion. Therefore, the FAA conference report appropriately provides funding for such costs.

Do the appropriators disagree that such funding is needed? Apparently not, since the DHS conference report actually contains an appropriation of \$250 million—exactly the same amount as the FAA bill—for such costs. So what is behind the appropriators' actions?

Given that the DHS conference report doesn't provide an explanation, one can only conclude they want to ensure complete and total control, as usual, even if it means taking action to nullify a provision not in their jurisdiction and that has not even been enacted.

The funding under the FAA conference report is taken from the revenue collected by the \$2.50 security fee imposed on all airline passengers. That fee was first established by legislation originating in the Commerce Committee after the September 11 attacks. The legislation also specified that the revenue could be used by the appropriators to help pay for the costs of aviation security.

The FAA conference report simply expands the uses of the fee revenue to include capital security costs at airports. The report also makes the money available directly to the Secretary of Homeland Security without further appropriation.

Our Nation's security, including the very important issue of aviation security, which the Congress has spent considerable time and attention addressing, should not be jeopardized due to needless jurisdictional fights. It is unfortunate that such a provision was included in such an important funding bill without any consultation with the authorizing committee of jurisdiction. I would hope we could do better for the sake of our Nation's security interests.

In addition, I am concerned about a provision in the conference report that would transfer funding for the Assistance to Firefighters Grant program from the Department of Homeland Security's Emergency Preparedness and Response Directorate to the Office for Domestic Preparedness.

The Assistance to Firefighters Grant program is a highly successful Federal

program created to meet the basic day-to-day needs of our Nation's firefighters. The program uses a competitive, merit-based review process to distribute funds directly to fire departments demonstrating the greatest need. Grants under this program are used for improving local response to "all-hazards," including wildfires, hazardous materials accidents, tornadoes, floods, and structural fires, and are not solely for antiterrorism efforts.

I am greatly concerned about the effects of this transfer on the program. ODP has little experience at running merit-based programs, such as the Assistance to Firefighters Grant program. ODP is focused on counterterrorism, and may not have the experience necessary to understand the basic requirements of today's firefighter to deal with non-terrorism related disasters.

I understand that the administration's fiscal year 2004 budget submission seeks to transfer this grant program to ODP. However, changes to the Assistance to Firefighters Grant program should be made after a thorough review and subsequent legislative changes by the appropriate authorizing committees, not as a provision in an appropriations bill.

Compared to other appropriations measures, the conference report and Statement of Managers contain fewer objectionable provisions and earmarks. I would hope future appropriations measures follow suit.

Mr. COCHRAN. Mr. President, we have no other Senators who wish to speak on the adoption of the conference report on the Homeland Security appropriations bill. We are prepared to proceed to a vote on the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to. Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am pleased that the Senate has acted favorably on this conference report. Before we leave the subject, I have to express my appreciation to the members of the staff of our subcommittee in the Senate on our side of the aisle who worked so hard to make this conference report a reality. This was breaking new ground; there is no precedent for this bill. This is a historic event and a lot of hard work went into writing the bill and guiding it to passage on the floor of the Senate and then working out our differences with the other body.

I am pleased that the Senate has unanimously adopted the conference report. I especially want to express my

appreciation to Rebecca Davies, chief clerk of the subcommittee, and to the other staff members who assisted her in the hard work that was done in furtherance of our efforts to get a bill, including Les Spivey, Rachelle Schroeder, Carol Cribbs, James Hayes, and Josh Manley. They all deserve our thanks and congratulations for a job well done.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. CAMPBELL. Madam President, speaking for the leader, as in executive session, I ask unanimous consent that at 5:30 p.m. today, the Senate proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 358, the nomination of Larry Burns to be a U.S. District Judge for the Southern District of California. I further ask unanimous consent that the Senate proceed to a vote on the confirmation of the nomination; that following the vote, the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection? The Democratic whip.

Mr. REID. Reserving the right to object, and I will not object, this is the 154th judge we have approved. As I recall, there are three we have not approved. It is 154 to 3. That is a pretty good record.

I also ask that the unanimous consent request be modified to allow Senator BOXER 2 minutes to speak prior to the vote on the nomination of Larry Burns.

The PRESIDING OFFICER. Does the Senator so modify his unanimous consent request?

Mr. CAMPBELL. I so modify the request.

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

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

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

#### UNANIMOUS CONSENT AGREEMENT—H.R. 2657

Mr. CAMPBELL. Madam President, I ask unanimous consent that when the Senate proceeds to the consideration of the conference report to accompany H.R. 2657, it be considered under the following time limitation: myself, 10 minutes, Senator DURBIN, 10 minutes, and Senator STEVENS, 10 minutes.

I further ask unanimous consent that following the use or yielding back of time, the conference report be agreed to and the motion to reconsider be laid on the table, with no intervening action or debate.

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

Mr. CAMPBELL. 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.

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

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

#### EXECUTIVE SESSION

#### NOMINATION OF LARRY ALAN BURNS, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Executive Calendar No. 572, which the clerk will report.

The legislative clerk read the nomination of Larry Alan Burns, of California, to be United States District Judge for the Southern District of California.

Mrs. BOXER. Madam President, we are about to have a vote on a judge. I wanted to take this time, 2 minutes, to offer my support for this nominee. I want to say this particular nominee for the Southern District Court of California, Larry Burns, is very qualified for this position. He is a native Californian. He is a graduate of Point Loma College and the University of San Diego Law School.

I want to emphasize the wide support Judge Burns has from law enforcement and civil rights organizations. His firm commitment to the law was well regarded while he was both a Federal and a State prosecutor. He has developed an equally respected reputation as a judge, due to his character and his legal expertise.

So I believe the Southern District will benefit greatly from the exemplary services of Judge Burns. I fully support confirmation of this nominee.

At a time when we have a lot of partisan discord, I think it is important to know that in California, Senator FEINSTEIN and I, working with the administration, have a wonderful process in place by which the two Democrat Senators get three people on a committee to pass judgment on these nominees and the administration appoints three people. Each nominee for the district court goes through our process and they are then recommended to the President on a majority vote.

What has happened is we have taken the politics, truly, out of this judicial selection process. We have come up with mainstream candidates. That is very important because I believed the President when he came forward and said he was going to govern from the center. When he puts forward judicial nominees who are from the center, who are not radical, who are not far to the right, I am the first one to support them, and I have supported well over 90 percent of them.

When it comes to voting for nominees who are off the scales and not representative of the values of America, I am the first one to say it is not right. We have a process in place for the district courts that I only wish we had for the higher courts—the circuit courts—because it isn't working that well. But it is working very well in the district courts.

Again, I urge my colleagues to vote yes on Larry Burns's nomination, and I hope it will be a unanimous vote.

Mr. LEAHY. Madam President, I am pleased that we are now turning to the nomination of Magistrate Judge Larry Alan Burns for the Southern District of California. This well qualified nominee is the product of the exemplary bipartisan commission that Senators FEINSTEIN and BOXER have worked so hard to maintain. It is a testament to their diligence that we have such stellar nominees heading to California's federal courts.

Judge Burns has been a United States Magistrate for the past six years in San Diego. Prior to becoming a Magistrate, Mr. Burns gained significant trial experience as a State and federal criminal prosecutor. Judge Burns has also served as a mentor to disadvantaged students, assisting them in achieving their educational and career goals. He was honored for his work in this area with a Faculty Mentoring Award from San Diego State University in 1996. In addition, he has taught legal courses at both the undergraduate and graduate school levels at several San Diego universities. In light of his remarkable record of public service and trial experience, it is not surprising that the American Bar Association was unanimous in its determination that Judge Burns is "Well-Qualified" to be a federal district court judge.

The Southern District of California the busiest federal district in the nation. Last Congress, in enacting the DOJ Reauthorization legislation, we created the seat that Judge Burns is nominated to in an effort to alleviate their staffing shortage. In light of their demanding caseload and corresponding staffing needs, the Judiciary Committee expedited nominations to the Southern District. Judge Burns was nominated on May 1, 2003 and was voted out of committee on September 4, 2003. It is unfortunate that Judge Burns and another nominee for this court have been pending on the floor all month but I am pleased that we are voting on Judge Burns today. The path of his nomination demonstrates that the fact that the Senate can act expeditiously when we receive well-qualified, consensus nominations on courts that need additional judges.

Another consensus nominee for another vacancy in that district remains on the Senate executive calendar awaiting action. I implore the Senate Republican leadership to allow a prompt vote on the nomination of Dana Makoto Sabraw. I expect that

vote to be unanimously in support, as well.

Senator FEINSTEIN also deserves much credit for working so hard to create these additional judgeships in the Department of Justice authorization we passed in 2002. These judgeships are among those we created for border districts that have a massive caseload and that needed more federal judges. We did what the Republican majority refused to do in the years 1995 through 2000 when there was a Democratic President, namely, create additional needed judgeships for the Southern District of California. We did so under Senate Democratic leadership with a Republican President. They have been available to be filled since July 15.

The Judiciary Committee held hearings of Magistrate Judge Burns and others just before the August recess and they were unanimously reported by the Judiciary Committee at our first meeting on September 4. That was three weeks ago. In addition to the nomination of Dana Makoto Sabraw, which is already favorably reported and on the Senate executive calendar awaiting action, two more nominees to two additional vacancies recently created for the Southern District of California should be considered and reported by the Judiciary Committee tomorrow.

I congratulate the California Senators on their outstanding work and this nominee and his family on this confirmation.

Mrs. BOXER. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Larry Alan Burns, of California, to be United States District Judge for the Southern District of California? The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Hampshire (Mr. GREGG), the Senator from Oklahoma (Mr. INHOFE), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

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

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

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

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 363 Ex.]

YEAS—91

|           |             |             |
|-----------|-------------|-------------|
| Akaka     | Dayton      | Lugar       |
| Alexander | DeWine      | McCain      |
| Allard    | Dole        | McConnell   |
| Allen     | Domenici    | Mikulski    |
| Baucus    | Dorgan      | Miller      |
| Bayh      | Durbin      | Murkowski   |
| Bennett   | Ensign      | Murray      |
| Biden     | Enzi        | Nelson (FL) |
| Bingaman  | Feingold    | Nelson (NE) |
| Bond      | Feinstein   | Nickles     |
| Boxer     | Fitzgerald  | Pryor       |
| Breaux    | Frist       | Reed        |
| Brownback | Graham (SC) | Reid        |
| Bunning   | Grassley    | Roberts     |
| Burns     | Hagel       | Rockefeller |
| Byrd      | Harkin      | Santorum    |
| Campbell  | Hatch       | Sarbanes    |
| Cantwell  | Hollings    | Schumer     |
| Carper    | Hutchison   | Sessions    |
| Chafee    | Inouye      | Shelby      |
| Chambliss | Jeffords    | Smith       |
| Clinton   | Johnson     | Snowe       |
| Cochran   | Kennedy     | Stabenow    |
| Coleman   | Kohl        | Stevens     |
| Collins   | Kyl         | Talent      |
| Conrad    | Landrieu    | Thomas      |
| Cornyn    | Lautenberg  | Leahy       |
| Corzine   | Leahy       | Voinovich   |
| Craig     | Levin       | Warner      |
| Crapo     | Lincoln     | Wyden       |
| Daschle   | Lott        |             |

NOT VOTING—9

|             |        |           |
|-------------|--------|-----------|
| Dodd        | Gregg  | Lieberman |
| Edwards     | Inhofe | Specter   |
| Graham (FL) | Kerry  | Sununu    |

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

#### LEGISLATIVE SESSION

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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 BRANCH APPROPRIATIONS ACT, 2004—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report to accompany H.R. 2657.

The assistant legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2657) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2004, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The Conference report is printed in the House proceedings of the RECORD of September 18, 2003.)

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Madam President, I am pleased to present the conference report to accompany the legislative branch fiscal year 2004 appropriations.

I thank Senator DURBIN and his staff for all their help and hard work. He was certainly cooperative in this process. I also thank Chairman STEVENS, chairman of the full Appropriations Committee, who has been extremely helpful in getting the conference report to the Senate.

The legislative branch bill totals \$3.549 billion, just 2.5 percent of the fiscal year 2003 level. Highlights of the bill include funding of \$220 million for the Capitol Police for a total of 1,592 police officers. In addition, the police would have authority to hire 75 civilian personnel to improve administrative operations and move about 30 officers from desk jobs to field jobs.

Funding is included for a mounted horse unit which will provide enumerable benefits for the police department. I understand they are working out an agreement with the Park Service to house the horses with the Park Service horses.

The bill also includes language that will move forward the merger of the Library of Congress police force with the U.S. Capitol Police to improve the security of the entire Capitol complex.

The Architect of the Capitol: Funds total \$405 million, which includes \$47.8 million for the Capitol Visitors Center so we can finally move forward and fill up that big hole that is outside our front door. The Visitors Center project funding is partially offset by using unobligated prior year funds.

The Library of Congress: Funds total \$528 million for the library with funding going to such important programs as the veterans history project and the audio-visual conservation center being built in Culpeper.

The Open World Program is funded at \$13.5 million. This program has been very successful in showing firsthand democracy and how we lead a country in democratic institutions to emerging Russian leaders and has been expanded to include certain countries of the former Soviet Union.

Funds are also included for the General Accounting Office, the Congressional Budget Office, and the Government Printing Office, as well as the House and Senate.

The supplemental appropriations portion totals \$937.6 million in title III of this bill for the emergency supplemental items, such as additional funding for FEMA, which has been doing such a terrific job facing the number of natural catastrophes we have had in America this last year.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I am happy to have worked with Senator CAMPBELL of Colorado on this fiscal year 2004 legislative branch appropriations bill. It is a good and fair bill. Considering our limited resources, I think it accomplishes many objectives.



The bill totals \$3.547 billion, which is \$27 million below the Senate and \$36 million above the House. The Senate portion totals \$717 million.

The Capitol Police funding totals \$220 million. The Architect of the Capitol funding is \$405 million, including \$47.8 million for the Capitol Visitors Center. The funding for the tunnel from the new Capitol Visitors Center to the Library of Congress is capped at \$10 million. This is pursuant to an amendment offered by a conferee, Congressman DAVID OBEY of Wisconsin.

The Library of Congress total funding is \$528 million. The Open World Leadership Center is funded at \$13.5 million. I am especially happy to see the Visitors Center fully funded. This was quite a challenge for Congress but well worth the effort. Beyond everything else this center has to offer, security remains the top benefit.

Many of us can still recall vividly September 11, 2001, when in the early morning hours we were forced to evacuate the Capitol for fear that this building, this symbol of our great country, was under attack. We learned later from some of the sources available to us that the plane that was brought down by the heroic passengers in Pennsylvania was destined to crash into the U.S. Capitol Building, undoubtedly resulting in a lot of innocent people dying. The heroism of the passengers and crew on that United Airlines plane saved our lives, and we are forever grateful to them and their families for their extraordinary feats of bravery.

I can recall that day, going down the steps of the Senate onto the lawn, and standing there with thousands of people who didn't know which way to turn. Elderly tourists came up to me and said: "Where are we supposed to go, do you know?" The obvious answer was that there was no place to go. You could hardly direct those people or the visitors and staff and Members working in this Capitol Building to a safe location.

At the time, it was my honor to serve as chairman of the Legislative Appropriations Subcommittee, and I felt at that moment that I had to do whatever I could to accelerate the conversation leading to the construction of the Capitol Visitors Center—a place clearly to be designed for security and designed to accommodate the needs of the growing responsibilities of the U.S. Capitol.

I am happy to report that President Bush agreed and the leaders in Congress came to a similar agreement. And if anyone has visited Washington since then, they know we have a massive excavation taking place outside the Capitol Building, which, over time—a reasonable period of time—will be filled with an extraordinary engineering feat, a Capitol Visitors Center, which will give us security and a lot of the space we dearly need to serve the people of the country.

I am glad that this appropriations bill, among others, appropriates some

\$48 million for that purpose. It makes certain we are going to maintain our responsibility in seeing this through to its completion. We simply cannot afford to put the security of those who visit the Capitol and those who work here in jeopardy. Having been here on September 11, 2001, seeing so many people at a loss as to where to turn for safety, I understand we are going to give them the answer—the very best answer—when it comes to security when they visit one of the most well-known and important buildings in our entire Nation. This project deserves to go forward as planned, and it will when this conference report is adopted for this legislative branch appropriation.

I also wish to say a few words about the Capitol Police. After September 11, we spent a lot of time acknowledging the overtime and extraordinary courage of these men and women who protect us every single day. They had to change their family lives, their personal lives, and make a career commitment to all of us who work here, and they did it. We can never thank them enough for all they have done. Since then, we have tried to increase staffing as necessary and make certain that those who were hired—men and women—met the highest standards of all who have served before them. I am happy to say that funding for the Capitol Police totals \$220 million.

The key differences from the bill we passed include no additional hires of sworn officers until they have a final strategic plan. One of the other things we do, though, is really take an important step forward in integrating the security force of the Library of Congress with the Capitol Hill Police.

It is going to become, I hope, a seamless security force on Capitol Hill, and this is an important step forward.

We also provide for Library of Congress police officers to be hired by the Capitol Police and allow for their training by police officers in the Capitol Police Department.

We also make certain that several important projects at the Library of Congress are well funded: \$528 million for the Library of Congress. There are funds for "Adventures of the American Mind" totaling over \$8 million. From my personal experience, this has been a very successful project engaging the universities and colleges around the country and in my State of Illinois to discover what we have to offer at the Library of Congress. I encourage all who are following this debate to go to the Web site of the Library of Congress, and you will find an amazing array of opportunities for knowledge and information.

Mr. President, I am prepared to recommend to my colleagues when this conference report comes to the floor that they all vote favorably.

I thank Drew Willison, Nancy Olkewicz, and Pat Souders of my personal staff for their very hard work in helping prepare this legislative branch appropriations conference report. I

think it is a product well worthy of the support of all Senators of both political parties.

I am prepared to yield the floor to my colleague from Colorado, if he is prepared to say a few words on behalf of the conference report. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. NICKLES. Mr. President, I take this opportunity to inform the members of this distinguished body about H.R. 2657, the legislative branch appropriations bill for FY 2004, as reported by the Senate Committee on Appropriations.

The pending bill provides \$3.5 billion in new budget authority and \$3.7 billion in new outlays for FY 2004 to fund the operations of the Senate and House of Representatives; the Architect of the Capitol; the U.S. Capitol Police; and the Library of Congress. With outlays from prior-years and other completed actions, the Senate bill totals \$3.6 billion in budget authority and \$3.8 billion in outlays.

For discretionary spending, which represents the bulk of the funding in this bill, the Senate bill is \$73 million below the subcommittee's 302(b) allocation for budget authority, and is at its 302(b) allocation for outlays. The Senate bill is \$312 million in BA and \$130 million in outlays below the President's budget request.

In addition to providing appropriations for FY 2004 for the legislative branch, the committee-reported bill contains various supplemental appropriations for FY 2003. The FY 2004 concurrent resolution on the budget, H. Con. Res. 95, established levels for FY 2003 and provided an allocation, pursuant to section 302(a) of the Congressional Budget Act of 1974, to the Committee on Appropriations for FY 2003 in the joint explanatory statement accompanying the resolution, see page 130 of H. Rept. 108-71.

As a point of information, I would like to call my colleagues' attention to section 302(c) of the Congressional Budget Act. Section 302(c) provides that it is not in order to consider a bill making appropriations for a fiscal year until the Committee on Appropriations has made the suballocations required by section 302. It appears that the Committee on Appropriations has yet to file 302(b) allocations for 2003. This point of order may be waived, or a ruling of the Chair appealed, with 60 votes.

With regard to the emergency 2003 supplemental funding, the conferees did not fund all elements of the President's request, they did not exceed the total amount of his request, as adjusted for the supplemental FEMA appropriations already enacted in July.

I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

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

H.R. 2657, LEGISLATIVE BRANCH APPROPRIATIONS, 2004:  
SPENDING COMPARISONS—CONFERENCE REPORT

(Fiscal year 2004, in millions of dollars)

|                                | General purpose | Mandatory | Total |
|--------------------------------|-----------------|-----------|-------|
| Conference Report:             |                 |           |       |
| Budget authority .....         | 3,539           | 109       | 3,648 |
| Outlays .....                  | 3,737           | 109       | 3,846 |
| Senate 302(b) allocation:      |                 |           |       |
| Budget authority .....         | 3,612           | 109       | 3,721 |
| Outlays .....                  | 3,737           | 109       | 3,846 |
| 2003 level:                    |                 |           |       |
| Budget authority .....         | 3,620           | 104       | 3,724 |
| Outlays .....                  | 3,327           | 103       | 3,430 |
| President's request:           |                 |           |       |
| Budget authority .....         | 3,851           | 109       | 3,960 |
| Outlays .....                  | 3,867           | 109       | 3,976 |
| House-passed bill:             |                 |           |       |
| Budget authority .....         | 3,480           | 109       | 3,589 |
| Outlays .....                  | 3,599           | 109       | 3,708 |
| Senate-passed bill:            |                 |           |       |
| Budget authority .....         | 3,575           | 109       | 3,684 |
| Outlays .....                  | 3,689           | 109       | 3,798 |
| CONFERENCE REPORT COMPARED TO— |                 |           |       |
| Senate 302(b) allocation:      |                 |           |       |
| Budget authority .....         | (73)            |           | (73)  |
| Outlays .....                  |                 |           |       |
| 2003 level:                    |                 |           |       |
| Budget authority .....         | (81)            | 5         | (76)  |
| Outlays .....                  | 410             | 6         | 416   |
| President's request:           |                 |           |       |
| Budget authority .....         | (312)           |           | (312) |
| Outlays .....                  | (130)           |           | (130) |
| House-passed bill:             |                 |           |       |
| Budget authority .....         | 59              |           | 59    |
| Outlays .....                  | 138             |           | 138   |
| Senate-passed bill:            |                 |           |       |
| Budget authority .....         | (36)            |           | (36)  |
| Outlays .....                  | 48              |           | 48    |

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.  
Prepared by SBC Majority Staff, 9/24/2003.

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

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

Under the previous order, the conference report is agreed to and the motion to reconsider is laid upon the table.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDERS FOR THURSDAY,  
SEPTEMBER 25, 2003

Mr. STEVENS. Mr. President, on behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, September 25. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business for 60 minutes, with the first 30 minutes under the control

of the minority leader or his designee, and the remaining 30 minutes under the control of Senator HUTCHISON or her designee; provided that following morning business the Senate then proceed to the consideration of the conference report to accompany H.R. 2658, the Defense appropriations bill.

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

PROGRAM

Mr. STEVENS. For the information of all Senators, tomorrow, following morning business the Senate will begin debate on the Defense appropriations conference report for 2004. We do not anticipate a great deal of debate on that important conference report prior to a vote on its adoption. In addition, the Senate will resume consideration of the DC appropriations bill. Senators therefore should expect rollcall votes throughout the day, and Members will be notified when the first vote is scheduled.

ORDER FOR ADJOURNMENT

Mr. STEVENS. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the remarks to be offered by Senator PRYOR.

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

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RATIFYING THE DO-NOT-CALL  
REGISTRY

Mr. PRYOR. Mr. President, I rise today to support legislation that would clearly allow the Federal Trade Commission to move forward with its national do-not-call registry. I have submitted an amendment to that effect, amendment No. 1786 to the DC appropriations bill, as well as cosponsored S. 1652, a bill to ratify the do-not-call registry provision of the telemarketing sales rule. As we have heard today, the U.S. District Court in Oklahoma issued a decision that the Federal Trade Commission lacked the authority to develop its national do-not-call list. The court ruled that, although Congress appropriated the funds to the FTC in order to have the program, it did not actually have the language necessary to authorize the establishment of the program and the implementation of the program.

Today, I rise in support of my proposal that would basically give the

Federal Trade Commission the clear authority and the statutory responsibility to establish a national do-not-call program. In addition, it affirms the finding that the Federal Trade Commission was authorized in the Telemarketing and Consumer Fraud and Abuse Prevention Act to implement and enforce the national do-not-call registry.

Last, it specifically ratifies the do-not-call registry provision of the FTC's telemarketing sales rule.

Before I was elected to this august body, I had the great privilege of being the attorney general of my State. I remember back in 1998 when I ran for attorney general of Arkansas, everywhere I would go, every little town I would go into, and every time I would talk to a group, whether it was veterans or whoever it happened to be, senior citizens or townspeople at large, they would tell me: Please, please, if you can do anything about telemarketers calling us at home and bothering us and trying to sell us something over the telephone, do it.

I was proud to do that. When I was elected to the office and began serving in January of 1999, the first thing I did was pull the staff together at the attorney general's office and write the State's do-not-call program. It was very different from the one the Federal Trade Commission came up with but both are equally good. They both get to the problem and I think can be very effective fighting against unwanted telephone calls.

Listen, we have all been there. We have all received those calls. We have all been eating dinner, trying to put our children down, trying to do homework, or watching our favorite TV show, whatever the situation might be, when we have been subjected to these unwanted calls. For most people it is an inconvenience. They don't like to be bothered. They want us to find a way to respect the integrity of the privacy of their own homes. After all, they are paying the phone bill; they are paying for the service. They should be able to have some control on the amount of calls coming in and to put a stop to these unwanted calls. Some of the phone companies actually offer a service that blocks calls from people who block their caller ID. That is another subject. That can be fairly expensive for some consumers. It's not always expensive.

The Federal Trade Commission came up with an idea to do this nationwide, to do it free, and to do it by use of toll-free numbers and Web sites allowing people to sign on. In fact, I signed on in the first week because one thing I noticed in Virginia is they do not have do-not-call laws, as far as I can tell, and we get bombarded in our home in Virginia. Unlike in Arkansas where we signed up for the AG's list and we may get one or two telemarketing calls a month, in Virginia we get 3 or 4 a day, and it seems they always try to call at an inopportune time.

One thing I noticed, one fact that apparently is true, as I understand it, the Federal Trade Commission now has 50 million phone numbers that have been registered under the Federal do-not-call program. Fifty million Americans can't be wrong. They want relief. They want us, as their lawmakers, as their elected Representatives here in Washington, to do something to stop these calls.

The Federal Trade Commission, to its credit, and I appreciate them greatly for doing this, tried to come to their aid, come to their assistance, to make a national do-not-call registry a reality.

I think this is something the Nation is ready for. Fifty million people have already tried to sign up in the first few weeks after the announcement of the national do-not-call program. It is something we as Members of this body and as Members of the Congress, of the Federal Government, should try to do to ensure that the people of this country, if they want it, on a voluntary basis, can have some relief from unwanted telemarketing calls.

Congress mandated that this list be implemented on a national scale, and the President signed it into law. The legislation I am proposing now clarifies our intentions, and I certainly ask my colleagues to support the legislation in any way they can. I hope we will have a vote on this matter in very quick order.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

#### THE INTERNET TAX NON-DISCRIMINATION ACT OF 2003

Mr. FRIST. Mr. President, S. 150, the Internet Tax Non-discrimination Act of 2003, will be referred to the Finance Committee for a brief 30-day review. As many of my colleagues are aware, this consensus legislation was unanimously approved by a voice vote by the Senate Commerce Committee on July 31. In addition, the House passed a similar measure on September 17. The current moratorium ends on November 1 and I am committed to acting before it expires.

As the strong bipartisan support of these measures indicates, there is a growing consensus that the Internet should never be singled out for mul-

tipled or discriminatory taxation. Rather, the unprecedented benefits of the Internet to our society and economy should be encouraged by policymakers. I am confident that the Finance Committee's review of this matter will confirm Congress' intent to permanently extend the moratorium, and I look forward to an expedited and non-controversial review of this matter as a member of the committee.

#### NORTHERN KENTUCKY UNIVERSITY'S METROPOLITAN EDUCATION AND TRAINING SERVICES PROGRAM

Mr. MCCONNELL. Mr. President, I rise to pay tribute to Northern Kentucky University's Metropolitan Education and Training Services, METS, program. The ceremony to formally dedicate the METS center is scheduled for this morning in Boone County, KY.

The rapid rate of economic growth in the Northern Kentucky / Cincinnati metropolitan area has created a need for better-trained workers. In an attempt to address this problem, Northern Kentucky University has developed an innovative partnership with the Tri-County Economic Development Corporation, the Northern Kentucky Chamber of Commerce, the Greater Cincinnati Chamber of Commerce, and Delta Air Lines. The partnership ensures that the workforce has the skills needed to promote the region's growth.

Businesses that need educational services or a certain skill-set for its employees can contact METS, who will work with Northern Kentucky University to design the appropriate curriculum. If Northern Kentucky University does not offer a particular set of classes, METS arranges for students to take classes at other institutions via the Internet or Tele-conferencing.

The opening of this new state-of-the-art corporate training center is exciting for the region's business community and Northern Kentucky University. I am confident that METS can serve as a model for rapidly growing metropolitan communities, and I am pleased that this facility is in the Commonwealth. I ask my colleagues to join me in recognizing the official dedication of Northern Kentucky University's METS center.

#### FCC MEDIA OWNERSHIP RULES

Mr. BAUCUS. Mr. President, I rise today in support of Senator DORGAN's effort to overturn the Federal Communication Commission's media ownership rules. I commend Senator DORGAN on his resolve to work with his colleagues in a bipartisan manner to bring forward a commonsense solution to this pressing issue.

Every 2 years the FCC is required to review its media ownership rules. This most recent decision to roll back media ownership limitations was the most sweeping in a generation. Was it in response to the American people

asking for this reform? No, in fact over 2 million Americans contacted the FCC opposing the rule changes. In my office, I received over 1,000 letters from Montanans opposing the decision. It seems that the FCC turned a deaf ear to the will of the American public. I hear them loud and clear.

I support Senator DORGAN's effort for three basic reasons: diversity, localism, and economics. First, if America is to have a vibrant democracy, one where our citizens are free to express their views and have equal accessibility to the news, we as policymakers must protect that right. The FCC's decision allows large corporations that already have considerable clout over what we hear and see to further consolidate. The decision allows TV networks to own more stations reaching more Americans. Even worse, these same stations could own the local newspaper in the same market.

We as Americans must have access to diverse news and information. The FCC's decision runs contrary to this axiom and would allow a few large television stations to reach nearly one-half of the viewing public. If the UHF discount is factored, nearly 90 percent of our Nation's households could be covered by one entity. Diversity is jeopardized when one company has this much leverage over what we see and hear.

Senator DORGAN has pointed out that localism is being lost to the bottom line. I can not agree more. A generation ago, Americans sat around the radio and listened to local news. We huddled around the TV to watch our local news anchor give us the latest information about our communities. Today, news and information is being portrayed as local, when, in reality, it is being broadcast to us from hundreds or even thousands of miles away. Instead of broadcasting news about our communities from our communities, media companies are broadcasting about our communities even though they are nowhere near us. This is not localism and we should not stand idle to this emerging trend.

This decision has the potential to cause job loss in Montana. In Montana we have many "mom-and-pop" newspapers and television stations. Typically, these companies serve the rural areas of our State and do a tremendous job reporting about local activities and news. And they are often owned and operated by local citizens living in the communities they serve. And very often they are run on a very tight budget. The FCC's ruling jeopardizes our local stations and newspapers because these new larger companies will be able to squeeze these companies out of the market through advertising revenues with sheer economic clout. With additional leverage over the media landscape, these small, rural companies will find it harder and harder to compete and keep their doors open. As Montana's senior Senator, I will fight to protect our small TV and newspaper owners.

While I disagree with a majority of the FCC's decision, I would like to point out for small market broadcasters to survive, they may need the chance to utilize duopolies and other means to stay in business. And while I am concerned about the broad sweeping changes the FCC made, I remain cognizant of the fact that small market broadcasters may potentially need to utilize the very changes we may revoke today, and I will work with my colleagues to find market relief for these small broadcasters when warranted.

Over the next several months we will continue to argue the merits of this issue. However, I will only support any legislation that protects diversity, localism, and Montana's small businesses.

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Berkeley, CA. On May 12, 2003, the victim, a 23-year-old male Sikh wearing a turban, was assaulted while on an evening walk at the University of California. The attacker, and his two male companions, started to walk past the victim, then yelled, "Taliban, look out!" The suspect punched the victim in the nose then pushed him to the ground. The suspect later pulled the victim back to his feet and the men left the scene on foot.

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.

#### CMS' PROPOSED CHANGES TO THE 75 PERCENT RULE

Mr. NELSON of Nebraska. Mr. President, I would like to express my concern with a proposed rule by the Centers for Medicare and Medicaid Services, CMS, that would threaten the ability of rehabilitation hospitals to continue to provide critical care.

In my home State of Nebraska, Madonna Rehabilitation Hospital in Lincoln is a nationally recognized premier rehabilitation facility that offers specialized programs and services for those who have suffered brain injuries, strokes, spinal cord injuries, and other rehabilitating injuries. If this proposed rule goes into effect, Madonna would not be able to offer the same critical

care to its patients as it currently does.

When CMS first looked at whether facilities would qualify as an IRF, a list of criteria was created to determine eligibility. They current criteria, generally referred to as the 75 percent rule, were established in 1984 and have not been updated since then. To qualify as an IRF under the 75 percent rule, 75 percent of a facility's patients must be receiving treatment for one of 10 specified conditions. Because the rule has not been updated in almost 20 years, newer rehabilitation specialties are not reflected and, therefore, are not counted in determining facility compliance with the 75 percent rule.

Since the 75 percent rule was implemented, IRFs have argued that the list of conditions should be expanded to reflect advances in modern rehabilitation medicine. The need for new rehabilitation specialties to treat cardiac, pulmonary, cancer, and other conditions was not even foreseeable when the 75 percent rule was implemented. Yet CMS has repeatedly refused to update the rule—even after implementing a payment system that specifically recognizes many more conditions than the 10 listed in the 75 percent rule.

On September 9, 2003, CMS published proposed modifications to the outdated 75 percent rule. I commend CMS for recognizing the need to update the regulation. Unfortunately, I believe that the proposed changes do not go far enough and may have serious consequences for Medicare beneficiaries and other patients who need inpatient rehabilitation care.

On its face, it appears that CMS expanded the rule by increasing the number of conditions from 10 to 12 and by lowering the percentage threshold from 75 percent to 65 percent. However, this "expansion" is illusory. The proposed rule will, by CMS's own estimate, reduce Medicare payments to IRFs by \$223 million annually and shift hundreds of thousands of patients—both Medicare and non-Medicare—into alternative care settings that may be inappropriate.

It is worth noting that Congress gave CMS a directive to implement the rehabilitation prospective payment system in a budget-neutral manner. Yet this rule—without any congressional directive—seriously cuts rehabilitation hospital funding.

Although CMS expanded the number of conditions from 10 to 12, it did so by replacing one of the existing conditions—polyarthritis—with three new conditions that collectively are much more narrow than the original condition. CMS acknowledges that the industry historically has understood hip and knee replacement cases to fall within the definition of "polyarthritis." Unfortunately, CMS now proposes to count joint replacement cases only if the patient has made no improvement after an "aggressive and sustained course of outpatient therapy."

This means that, instead of being directly transferred from an acute care hospital to an IRF, the patient will be forced into a skilled nursing facility, SNF, and/or outpatient therapy before being eligible for inpatient rehabilitation. IRFs would become a setting of last resort, and patients who might have returned to function after a brief IRF stay will be forced to endure weeks if not months, of therapy in other settings that may be inappropriate before being admitted to an IRF.

CMS also proposes to lower the threshold from 75 percent to 65 percent for a three-year period to give facilities time to come into compliance with the new criteria. Although this change is an improvement, it simply does not go far enough to prevent a significant negative impact on rehabilitation patients and providers.

RAND data indicate that only about 25 percent of IRFs, at most, could meet a 65-percent threshold under the current list of 10 conditions. Since the proposed rule actually narrows the agency's interpretation of arthritis-related conditions, the percentage of facilities that could comply with the revised list of conditions is probably lower. This means that, even under a 65 percent standard, at least 75 percent of facilities will be deemed out of compliance if CMS finalizes the proposed rule.

The proposed rule glosses over the negative impact that this dramatic shift will have on patients by assuming that all sites of care are equally effective and equally available. But I am very concerned about the impact that the proposed rule would have on patients living in rural areas, where alternative sites of rehabilitative care may be unavailable or highly inconvenient. Where SNF beds are scarce and few home health providers offer physical therapy services, these patients could be forced to travel long distances for daily outpatient care in a weakened state, risking reinjury and rehospitalization.

Because compliance with the proposed rule will hinge on an IRF's total patient population, not just its Medicare population, CMS estimates that the proposed rule "may have an effect" on approximately 200,000 non-Medicare patients. CMS was not able to quantify or describe this effect because of inadequate information. In my opinion, it would be irresponsible to implement this rule without further studying its likely impact on Medicare beneficiaries, non-Medicare patients, rehabilitation providers, and the Medicare Program.

The Medicare Payment Advisory Commission, MedPAC, agrees that the rule needs to be updated. In a July 7, 2003, letter to CMS Administration Tom Scully, MedPAC Chair Glenn Hackburth proposed that CMS lower the threshold to 50 percent for at least a year to enable an expert panel of clinicians to reach a consensus on the diagnoses to be included in the 75 percent rule.

I agree with MedPAC and worked with Senator JIM JEFFORDS to file an amendment to the Labor, Health and Human Services and Education Appropriations bill that would have implemented MedPAC's recommendations.

I decided against offering my amendment for a vote, but I leave open the possibility of offering the amendment on another vehicle if CMS does not take appropriate action. I hope that the 75 percent rule can be updated to ensure that my constituents and all Americans continue to have access to necessary medical rehabilitation services.

#### CONTRACTING OUT IN THE DEPARTMENT OF INTERIOR

Mr. AKAKA. Mr. President, I rise today in strong support of the amendment offered by the Senator from Nevada, Mr. REID, to prohibit the use of fiscal year 2004 Interior funds to initiate public private competitions at the Department of the Interior, including the National Park Service. This amendment takes an important step to ensure that vital public services at Interior are not put at risk by the administration's aggressive plans to contract out Federal jobs.

As the ranking member of the National Parks Subcommittee, I view the administration's outsourcing policies as especially harmful to the National Park Service. I am particularly concerned that the outsourcing of Park Service jobs could target biologists, anthropologists and archaeologists.

During a Parks Subcommittee hearing this summer, Scot McElveen, the president of the Association of National Park Rangers testified that current outsourcing policies seriously threaten reliable, effective, and efficient service to the public.

Mr. McElveen said the administration's outsourcing plan is incompatible with the Parks Service's decentralized workforce. Furthermore, he noted that it would only worsen National Parks' current staffing and budgetary shortfalls by diverting funds for operations and maintenance to contract out jobs.

I agree with Mr. McElveen. I fail to see how outsourcing functions within the Parks Service will improve their mission to protect our national parks, historic sites, monuments, and other treasured places. Park Service employees have a strong sense of public service which cannot be replicated by the private sector.

I believe this amendment takes the measures needed to ensure that contracting out at the Department of the Interior does not come at the expense of our National Parks.

The Reid amendment is identical to language included in H.R. 2691, the House Interior Appropriations bill. I urge my colleagues to support this amendment.

#### HONORING OUR ARMED FORCES

Mr. MCCAIN. Mr. President, I was recently informed of the passing of MSG

Al Bland, USAF Ret. This distinguished veteran of the United States Air Force served his country admirably for 20 years. His military career included service during World War II, where Master Sergeant Bland was ordered to beach defense on the Bataan perimeter. Captured at Bataan in April of 1942, Master Sergeant Bland survived the Bataan Death March, carrying another soldier for most of the journey. As a POW, Bland was imprisoned at Camp O'Donnell in the Philippines, later on a Japanese Hell Ship and finally in Manchuria. He was finally released from prison camp in 1945, after three torturous years. As a result of his combat, he was 100 percent service related disabled.

The list of awards Master Sergeant Bland received for his valiant service include the Bronze Star and the Purple Heart. Upon completing his service, Master Sergeant Bland became a leader on POW related issues for many years. He was instrumental in establishing the Andersonville National Park and was awarded the POW Medal by President Reagan in 1988. I was fortunate enough to work with Master Sergeant Bland and more importantly call him a friend. Master Sergeant Bland was a true patriot and he will be sorely missed and by a grateful nation.

#### DO NOT CALL REGISTRY

Mr. KOHL. Mr. President, regrettably, a Federal judge in Oklahoma has voided the Federal Trade Commission's national "do not call" list that was set to go into effect on October 1. This action frustrates the wishes of more than 48 million Americans who have signed up for the "do not call" list. Though a judge ruled that the FTC lacked Congressional authority to create the national list, I strongly disagree and believe that Congress explicitly granted the Commission both the authority and the funding earlier this year to create a "do not call" list.

Indeed, absent Congressional action, the FTC's "do not call" list would have failed to have become a reality this year. I recall discussing the matter with FTC Chairman Tim Muris at a hearing before the Antitrust Subcommittee last September. He asked me for help in getting Congressional authority in order to raise fees necessary to implement the "do not call" list. We were able to grant the Commission this authority in the Consolidated Appropriations Resolution which passed in February of this year. We further authorized the FTC's initiative in the Do-Not-Call Implementation Act on March 11, 2003.

These actions more than authorized the FTC's "do not call" list, in my view. That said, this bill will make it crystal clear that Congress endorses, supports, and authorizes the FTC to create a national "do not call" registry.

I commend the FTC's hard work to create a national "do not call" list.

Such action was long overdue. The deluge of telemarketing sales calls is the number one consumer complaint in this country. It is a problem that has gotten out of control. The average American receives two to three telemarketing calls per day. I often receive even more than that. Some estimate that the telemarketing industry is able to make 560 calls per second or roughly 24 million calls per day. No wonder people feel like they are under siege in their own home. Therefore, we in Congress acted to ensure that the FTC's "do not call" list became a reality. Should we need to do more to overcome a court's objections, we can and shall do it.

Given the enormous response of nearly 50 million Americans who have signed up in less than 3 months, the "do not call" list is clearly needed. Though I am troubled by the court's decision, we can set the record straight and authorize the FTC's action. I urge quick passage of this legislation, so that the "do not call" list can start up as scheduled on October 1, 2003.

#### TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. SHELBY. Mr. President, I rise today in support of H.R. 3087, the Surface Transportation Extension Act of 2003. This bill, which was crafted in a bi-partisan, bicameral fashion will extend the Federal transportation programs for an additional 5 months to February 29, 2004.

The Transportation Equity Act for the 21st Century expires on September 30 of this year. Legislation is necessary to carry on the essential functions of the highway, highway safety, motor carrier safety, transit and other programs that are recipients of highway trust fund money. This bill accomplishes just that. It funds the programs at five-twelfths of the fiscal year 2004 budget conference report level.

H.R. 3087 is a clean reauthorization of these programs. This bill contains no new projects and no new programmatic changes. It simply extends TEA-21 and current provisions of transportation law. As the chairman of the Banking Committee whose jurisdiction includes the reauthorization of the transit title of TEA-21, I was hopeful that, working with the chairman of the relevant committee, we would have achieved passage of a multiyear bill. As funding levels and an appropriate source for those funds have yet to be identified, that proved to be impossible.

While I am not overly confident that 5 months of negotiating will resolve this problem, I support this piece of legislation. I believe it is essential that we continue to authorize our Nation's highway and transit infrastructure. I think this necessary stop-gap measure is the way to achieve that. I recommend the bill to my colleagues and ask for their support.

## ADDITIONAL STATEMENTS

HONORING JUDY HADLEY OF  
LINCOLN, RI

• Mr. CHAFEE. Mr. President, I would like to share with my colleagues a story demonstrating one person's ability to protect the environment from the threat of pollution, for the benefit of wildlife and human enjoyment, alike.

Thirty years after the passage of the Clean Water act, the Blackstone river has shaken off a legacy of neglect and re-emerged as a vital community asset. The water quality has improved, a bikeway is under construction, and mill buildings are being restored as apartments and condominiums. The National Park Service is promoting a new appreciation for the work and culture of the families who have made the Blackstone Valley their home. And just last week, I joined the Army Corps of Engineers in celebrating the restoration of wetlands in a floodplain that had been paved over for 50 years. So there is a great deal of activity on the banks of the Blackstone.

While the federal government has been a major player in the river's rebirth, none of these exciting developments would have been possible without the personal commitment of Blackstone Valley residents. It is their hard work and, more importantly, their heightened vigilance and renewed sense of ownership of the river, that have helped it to thrive.

Once such resident is Judy Hadley of Lincoln, RI—a town of about 21,000 people, located on the Blackstone River. As the chair of the Lincoln Land Trust, Judy is a staunch defender of her town's remaining open spaces and a passionate advocate on behalf of the Blackstone. She is active a number of other local organizations, including the Friends of the Blackstone River, the Blackstone River Watershed Council, and the Lincoln Tree and trail Commission. She has organized river cleanups and educated her fellow residents about the impact that stormwater has on the Blackstone and its wildlife population.

For many years, a 60-ton excavator sat abandoned on a manmade island in the river—a relic of an old gravel mining operation. It was an eyesore and a potential environment hazard. Two years ago, Judy Hadley went to work: canvassing State and Federal authorities, trying to find the best solution for this problem. No agency seemed to have the right equipment or the resources to handle such an unusual request, but Judy persisted. If she could have dismantled it herself and taken it away piece by piece, I think she would have.

Fortunately, Mr. President, it did not come to that. Last year, the Rhode Island Department of Environmental Management removed more than 300 gallons of diesel fuel and other fluids from the machinery. The excavator

itself was finally taken away this summer by the Army Corps via a temporary land bridge, as part of the wetland restoration project that I mentioned earlier. •

## IN TRIBUTE TO JOHN CARL WEST

• Mr. HOLLINGS. Mr. President, John Carl West was the smartest in our class of 1942 at The Citadel. I will never forget in the political science course COL Carl Coleman would pass around Time magazine's current accounts test. John was the only one who knew all the answers each time and he was long on common sense to go along with his brilliance.

At a later time I want to detail his contributions to our State and Nation, but the article in The State newspaper in Columbia, SC, appearing on September 21, has a pretty good summary of it. I that it be printed in the RECORD.

The article follows.

[From the State, Sept. 21, 2003]

## WAY AHEAD OF HIS TIME

(By Aaron Gould Sheinin)

HILTON HEAD ISLAND.—At 81, former Gov. John West is no lion in winter, no aged warrior. He is, as he's always been, a dove.

Battling cancer, West goes to his Hilton Head Island law office each morning. He still wears a tie and his trademark horn-rimmed glasses.

Nearly 33 years after South Carolinians answered his campaign call to "elect a good man governor," several projects are under way to ensure that West's legacy endures. That legacy will center on his progressive stands on race.

"My whole ambition and my whole thrust was to first get the state's racial relationship in better order," West says from his law office conference room, an expanse of saltwater marsh visible beyond a wall of windows.

A biography is in the works, and, at USC, an oral history and archive are complete. Also, a new program, called the West Forum, will perpetuate the Kershaw County native's interest in state government and policy.

As state senator, lieutenant governor and governor, West was out front on improving race relations when doing so meant you and your family got death threats from the Ku Klux Klan leader who lived less than a mile from your home. He also was out front on race relations in South Carolina when that meant you did not win elections.

And yet West did.

West, who once carried a pistol for protection, helped carry the state out of segregation. He created the state Human Affairs Commission and appointed Jim Clyburn to be the first black senior gubernatorial aide. He fought for better health care for all, for increasing teacher pay and stabilizing the education system.

West vetoed a capital punishment bill because, he said then, "I do not believe man has the right to take a life that only God can create." For a state still escaping the scourge of lynchings, West's actions spoke volumes to blacks, African-American leaders say. The Legislature, however, overrode the veto.

Later, West was U.S. ambassador to Saudi Arabia under President Jimmy Carter, choosing the posting over more pleasant locales.

## SAW ENORMOUS POTENTIAL IN BLACKS

Now, West has a new fight, against cancer. Kind and polite, he declines to talk about his

illness. But he's being treated at MUSC in Charleston, where, he says, the Hollings Oncology Center is a terrific asset for the state.

A self-described "old politician," West is pleased to remember the days when his beliefs were considered shocking by some. "In the election of 1970, I probably wouldn't have been elected without the black vote," West says. "The fact that we had relegated a large percentage of our people to service jobs, to limited education, limited opportunity, was just not smart. I felt that if we could unleash that potential, it would be a great boon for South Carolina. I like to think I was right about that."

For today's Democratic candidates, attracting the black vote is necessity and norm. In West's heyday, it was "almost revolutionary," he says.

Former President Carter and West became friends when both were governors, Carter in Georgia. Carter calls West a trailblazer in race relations. "He was and has always remained way ahead of his time, not only in race relations, but also in a deep commitment to make sure that every citizen of South Carolina was given an opportunity for good education and health care," Carter says. "His heart was in the right place and still is."

## WEST "BELIEVED STRONGLY IN GOOD"

In his 1971 inaugural address, West said South Carolina must "in the next four years eliminate from our Government any vestige of discrimination." Sitting in the crowd at the State House was newly minted state Rep. I.S. Leevy Johnson of Columbia, one of three African Americans elected that November to the House, the first blacks to serve since Reconstruction. West "changed the course of South Carolina history" when it came to relations between blacks and whites, Johnson says. "People recognized him as a person who believed strongly in good."

Clyburn believes he should have been in the crowd that day, too, as the fourth black House member. But the future congressman went to bed on election night believing he had won by 5,000 votes, only to wake up the next morning and be told that a counting error had been discovered. He'd lost by 5,000 votes.

When West asked him a week after the election to come to Columbia and work for him, Clyburn was reluctant. "I told him," Clyburn remembers, "that I didn't think it would be a good fit. I thought my politics and his may not have been suited for each other." But West "looked at me and said something I've never forgotten. He said, 'If I had your talent and I was black, I'd be more militant than you are.' And so I went to work for him."

After two years on the governor's senior staff, West appointed Clyburn to lead the Human Affairs Commission, the first state agency charged with fighting discrimination in employment, housing and public accommodations. Twenty years later, Clyburn became the state's first black congressman since Reconstruction.

## "JUST A SENSE OF RIGHT AND WRONG"

Through the turbulent 1950s, '60s and early '70s, West was the rare politician for whom race had not been anathema. "I had worked with blacks all my life," West says. "I had plowed fields with them, went through the Depression with them. I had no hatred of blacks. I guess it was just a sense of right and wrong."

It was that sense that led him to cross paths with the Klan. In the 1950s, when West was in the Senate, the doomed segregationist mantra of "separate but equal" was still the law in South Carolina.

The band at the white high school in Camden was accomplished and decorated. The

band at the nearby black high school was not. So the white band teacher offered to help the black band improve. He was beaten nearly to death by the Klan, West says. When the Kershaw County sheriff didn't seem too concerned, West approached J.P. "Pete" Strom, legendary director of the State Law Enforcement Division.

Strom's agents bugged a Klan hideout and within a week had made arrests. When a grand jury refused to indict the Klan leaders, West eventually worked against the Klan in a related civil suit. "The Ku Klux Klan threatened my life, ran my wife off the road," West said. "There were some questions there for a while of who was going to win, between me and the Klan."

West's wife, Lois, also was not one to be intimidated. "She was known as a crack shot," West says, emotion choking his words as he remembers his wife's brave actions at the time. "She sent word to the grand dragon that if anything happened to me, don't worry about the grand jury—she was going to kill him."

#### HELPED EASE RACIAL TENSIONS

In 1966, West was elected lieutenant governor.

In 1970, he ran for governor against Albert Watson, the state's first Republican congressman since Reconstruction. Watson had the backing of two top Republicans—U.S. Sen. Strom Thurmond and President Richard Nixon, who "campaign harder for my opponent than my opponent did," West says.

Watson spoke against forced integration of schools. Days before the vote, he rallied a group in Darlington County upset over court-ordered busing. Soon after, a group of whites overturned two buses of black children in what became known as the Lamar riot. Several children were injured and more than two dozen arrests were made.

In the 1970 election, West won nearly 54 percent of the vote as African-Americans went to the polls in record numbers. Just days later, Thurmond hired Tom Moss, the first black aide to work for a Southern U.S. senator. The segregationist Thurmond began his conversion then into a racial moderate, West says, and "saw the light with that election."

One biographer wrote "when John West entered office, racial tensions had never been higher. By the end of his term, relations between blacks and whites had never been better."

#### IT'S A PEOPLE GAME

About the time West was leaving office in 1975, Carter was running for president. "There were 49 other governors," Carter says, "and John West was my favorite of all."

Carter thought so highly of West that he offered him an ambassadorship. He was told to pick a country where "the living was nice," West remembers. Instead, he chose Saudi Arabia. The Middle East was just three years removed from the bloody war between Israel and its Arab neighbors. West wanted to be of use.

"People ask me how did I get along as well as I seemed to" in Saudi Arabia, West says. "I told them that the Saudis' religion was different, government was different, language, of course, was different.

"Politics was amazingly like South Carolina. It's a people game." Whatever it was, Carter says, West had it down. "That was the most challenging place in the world then," says Carter, who negotiated peace between Israel and Egypt. "The Saudis were a great potential problem for us," he says, "but because of John's unprecedented good relations with the Saudi leaders, it was not."

#### A GOOD MAN GOVERNOR

When West was still on the 1970 gubernatorial campaign trail, one of his

closest advisers was Crawford Cook, a local Democratic activist still on the state's political scene. They needed a slogan, Cook remembers.

They tried several.

Then someone suggested "probably the most appropriate slogan we ever put together," Cook said: "Elect a Good Man Governor." Former Gov. Dick Riley, a West friend and supporter, says history books undoubtedly will say South Carolina did just that in 1970.●

#### HONORING DR. TODD PALMER

● Mr. HARKIN. Mr. President, today I come to the floor to pay tribute to Dr. Todd Risley of Palmer, AR on the occasion of his retirement.

I recall meeting with him a number of years ago regarding his book "Meaningful Differences" which taught us profound lessons about the processes by which children learn language. This seminal effort is a part of his lifetime of work that has improved knowledge and practice across a broad spectrum of issues in human development, especially for individuals with developmental disabilities.

Whether by developing innovative educational methods such as incidental teaching and correspondence training, or by designing major paradigm shifts and system changes in strategies for delivering services, his remarkable vision and prodigious research and writing have literally revolutionized the process and outcome of supporting people who challenge our knowledge and resources.

As a pioneer in the field of applied behavior analysis and through his decades of contributions since, he will always be remembered as a scientist with a soul.●

#### HONORING DR. MONTROSE WOLF

● Mr. HARKIN. Mr. President, I am pleased to honor Dr. Montrose Wolf of Lawrence, KS.

I share in the celebration of his remarkable career, one that has been singularly dedicated to the betterment of others, particularly children who have challenged our educational and clinical knowledge and services.

Dr. Wolf is universally acknowledged as a founder of the field of applied behavior analysis, its principles and its practices. As the creator of its premier journal and author of its most definitive articles, he disseminated this burgeoning science to professionals who theretofore were resigned to study human behavior in laboratory settings only. Of equal importance, his demonstrations of the power of these principles and methods in effecting significant positive outcomes in people with real challenges set the stage for all that followed in the educational and clinical practices in widespread use today.

Among many other notable contributions, Dr. Wolf's Teaching Family model revolutionized systems and supports for disabled, troubled and at-risk

boys and girls, and enhancing the lives of well over a million youth through the Boys Town program and Teaching Family homes around the Nation.

Dr. Wolf's life and career have truly embodied the belief that the meaning of a good and worthwhile life is to give rather than receive. No one has given more of their talents and time. To his colleagues, consumers, and champions of children everywhere, he is a true hero.●

#### HONORING OUR ARMED FORCES

● Mr. LIEBERMAN. Mr. President, one of the most solemn duties that any Senator has is the memorializing of a constituent who has fallen in the line of duty in a far-away land. This is the fifth time I stand to do so, and on each occasion I am reminded of the remarkable character and quality of this generation of Americans; I would hope that their supreme sacrifice is noticed and remembered by their fellow citizens. But all too often the din of daily life in the 21st century threatens to drown out the news of the steady stream of allied casualties in Iraq. It is our duty to make sure that the rolls of the dead and wounded are read aloud: read, heard, and honored.

Therefore, Mr. President, I wish today to fulfill a sacred obligation, and to honor United States Army Sergeant David Travis Friedrich, of the 325th Military Intelligence Battalion out of Waterbury, CT.

Sergeant Friedrich was killed when mortar fire struck the base he was stationed at near the Abu Ghraid prison to the west of Baghdad. He died a true soldier; he died at his post.

Sergeant Friedrich was raised in upstate New York, he attended Brockport State University, and he was accepted into the forensics studies program at the University of New Haven in the Spring 2000. But while the Sergeant was a New Yorker by birth, his studies and work in Connecticut and his role in a Connecticut Battalion, the 325th to be precise, makes him an honorary son of our State.

It is a sad thing indeed for parents to bury their child, and I imagine that few words of solace spoken in this Chamber by the representatives of New York and Connecticut will penetrate the shroud of grief that must surround the Sergeant's family. With that in mind, however, I say this: know that as you grieve, a grateful Nation grieves with you. You are not alone in this time of sorrow, and your son's sacrifice will never be forgotten.●

#### NATIVE AMERICAN BUSINESSWOMAN OF THE YEAR, KARLENE HUNTER

● Mr. JOHNSON. Mr. President, I wish to publicly congratulate Karlene Hunter, of Kyle, SD, for receiving the Native American Businesswoman of the Year award at the National Indian Business Association Conference.



Karlene Hunter understands what many business owners have learned: owning a business requires talent, know-how, and a lot of hard work and perseverance. Karlene saw a need in her community and started Lakota Express, Inc., the only direct marketing and telemarketing company in the United States that is Indian-owned and operated. Lakota Express, Inc., employs trained professionals that have exceptional marketing skills. Because the company has provided telemarketing and direct mailing services for various organizations, it has an impressive track record of success.

Lakota Express, Inc., has become a valued member of the Pine Ridge community and is truly a South Dakota success story. For the past 5 years, Karlene has worked as CEO of Lakota Express, and has followed her dream of building a small business run out of her basement into the company that has raised \$10 million to fund the Oglala Lakota College's first public library, as well as 10 college centers across the Pine Ridge Indian Reservation in South Dakota. Karlene and Lakota Express have also worked to build the first independent Indian-owned public radio station.

Lakota Express' mission is to operate a business that creates economic opportunities for the Lakota Nation and participates in social, educational, and political issues that empower the people and protect the earth. I would like to take this opportunity to acknowledge the staff of Lakota Express, Inc., who have helped Karlene achieve this remarkable accomplishment; Mark Tilsen, Betty Brave, Theresa Zottola, Jim Head, Stephanie Sorbel, Nick Tilsen, April Rosales, Nicole Pourier, Mary Under Baggage, and Marlene Mesteth. I know that all these individuals and countless others, who have contributed richly to the company's many achievements, take great pride in the personal and collective accomplishments that are recognized through this honor.

It is with great appreciation that I join with the community, the employees, the customers, and the many people who interact with the company, in congratulating Karlene Hunter on her years of service and success. I wish Lakota Express, Inc., enduring good fortune and prosperity in their continued pursuit of excellence.●

#### EPSILON CHAPTER OF ZETA TAU ALPHA FRATERNITY AT UNIVERSITY OF ARKANSAS, FAYETTEVILLE

● Mrs. LINCOLN. Mr. President, I wish to recognize the Epsilon Chapter of Zeta Tau Alpha Fraternity at the University of Arkansas at Fayetteville. Zeta Tau Alpha Fraternity was founded on October 15, 1898, by nine women at the State Female Normal School in Farmville, VA. The Epsilon Chapter of Zeta Tau Alpha, founded on December 18, 1903, at the University of Arkansas

at Fayetteville, will celebrate 100 years of sisterhood from September 26-28 on the campus of the University of Arkansas at Fayetteville. The Centennial Celebration is expected to bring many Epsilon alumnae back to the campus, including Amber Elbert, a member of my staff and 1998 Epsilon initiate.

The Epsilon Chapter is unique in many ways. It is the first chapter in Zeta Tau Alpha history to reach a centennial mark and the first chapter founded west of the Mississippi River. Epsilon was also the very first chapter to be announced through the fraternity's official magazine, "Themis." The first pictures ever used in "Themis" were those of Epsilon, its chapter room and the University of Arkansas. The University of Arkansas students who founded the chapter in 1903 were Elizabeth Kell Rose, Hattie Williams, Margaret Hutcherson, Grace Jordan, Bess Byrnes, Della McMillan and Mabel Sutton.

The mission of Zeta Tau Alpha is to make a difference in the lives of its membership by developing the potential of each individual through visionary programming, which emphasizes leadership development, service to others, academic success and continued personal growth for women with a commitment to friendship and the future based on the values and traditions of our past. Having been actively involved with Chi Omega Fraternity as both a collegiate member and an alumna, I have witnessed firsthand the lifelong benefit that can come from membership in a Greek organization, such as Zeta Tau Alpha.

On behalf of all Arkansans, I would like to extend congratulations to the Epsilon Chapter of Zeta Tau Alpha Fraternity for 100 years of excellence and enriching the lives of its members from Arkansas and across the Nation.●

#### COMMENDING WORK TO AID VICTIMS OF TORTURE

● Mr. COLEMAN. Mr. President, I wish to acknowledge the important work that is being done to aid victims of torture, in particular the work of the International Rehabilitation Council for Torture Victims, IRCT. IRCT will be honored in a ceremony today, in New York City, where the Dalai Lama will present them with the Conrad N. Hilton Humanitarian Prize.

Torture is a sophisticated form of social and political control designed to stifle dissent through terror. It violates the basic rights of human beings and is contrary to the principles of the U.S. Constitution and the fundamental nature of our republic.

Freedom from torture is a universal and fundamental human right. Yet torture continues to take place in more than 120 countries. It is estimated that one-third of the world's 12 million refugees are victims of torture. Politicians, journalists, teachers, students, religious leaders, trade union and human rights activists are all targets. The aim

of torture is not to kill the victim, but to break down the victim's personality. Crippled, traumatized, and humiliated, the victims are returned to their communities as a warning to others.

That are an estimated 500,000 torture survivors in the United States alone—refugees and asylum-seekers who have fled repressive regimes. And in recent years, there has been a dramatic increase in the number of victims of torture seeking help at U.S. rehabilitation centers.

The IRCT has been a vital part of the global effort to aid torture victims. The Council began with a group of four doctors in Denmark who responded to a call by Amnesty International in 1973 to help diagnose torture victims. Today the IRCT is a global network of 200 rehabilitation centers operating in 80 countries to meet the needs of some 100,000 victims of torture each year. IRCT's mission is to support and promote the rehabilitation of victims of torture, to advocate for the prevention and eradication of torture worldwide, and to provide documentation and research that will ultimately bring perpetrators to justice.

Minnesota is home to the Center for Victims of Torture, CVT, the first comprehensive torture treatment center in this country—and third such facility in the world. The CVT helped establish National Consortium of Torture Treatment Programs, under which the 34 torture rehabilitation centers and programs in the United States operate. As mayor of St. Paul I worked together with the CVT to build a torture treatment center on the east side of the metro area.

The work of IRCT and the U.S. torture treatment programs is all the more relevant given pending legislation. I am proud to be the chief Senate author of the Torture Victims Relief Act, TVRA, of 2003, which will enable the U.S. to continue its leadership in caring for victims of torture. This reauthorization of the TVRA is included as an amendment to the fiscal year 2004 Foreign Relations authorization bill, and I look forward to the passage of this bill.

Once again, I commend the IRCT for their tireless work on behalf of torture victims in the U.S. and around the world.●

#### TRIBUTE TO VICE ADMIRAL JOHN TOTUSHEK

● Mr. COLEMAN. Mr. President, I am pleased to congratulate VADM John B. Totushek upon the completion of his career of service in the United States Navy and Naval Reserve. Throughout his 36-year military career, Vice Admiral Totushek served with distinction and dedication, ultimately becoming the first Naval Reservist Commander of the Naval Reserve Force to wear three stars, achieving the rank of Vice Admiral.

Vice Admiral John B. Totushek is native of Minneapolis, MN. A 1966 graduate of the University of Minnesota, he

earned his commission through a Navy ROTC scholarship and was designated a pilot upon completion of flight training in June 1968.

Vice Admiral Totushek began his Naval Aviation career in 1969 flying the F-4 Phantom with Fighter Squadron 41 based at Naval Air Station Oceana, VA. He continued his career as an F-4 instructor pilot and Landing Signal Officer with Fighter Squadron 101, also based at Naval Air Station Oceana. In November 1973, he resigned his regular commission and accepted a commission in the Naval Reserve. During the next 24 years, Vice Admiral Totushek served in numerous capacities with the Naval Reserve and several civilian companies.

As a Reservist, he served as commanding officer of three Virginia-based air-combat training squadrons, including Squadron Reinforcement Unit VC-1006, Squadron Reinforcement Unit VC-686, and Fighter Composite Squadron VC-12. He served as commanding officer of several Atlantic Fleet air support commands, including Naval Air Atlantic 1086 and Naval Air Forces Eastern Atlantic.

As his Reserve career advanced, he served in several senior strategic and management positions within the Navy, including command of the Atlantic Fleet's Logistics Task Force and the Naval Reserve Readiness Command Region Eight. Upon successful completion of these command tours, he served on the staff of the Chief of Naval Operations as the Deputy Director for Naval Air Warfare, Reserve Programs.

In early 1997, Vice Admiral Totushek was asked to return to active duty to lead the Navy's environmental, safety and occupational health programs. He then was selected as Commander, Naval Reserve Force on October 17, 1998. His duties include command of 88,000 Naval Reservists and 181 nationwide Reserve facilities. Vice Admiral Totushek also represents the Naval Reserve before Congress as Chief of Naval Reserve, and on the staff of the Chief of Naval Operations as Director, Naval Reserve. He was promoted to vice admiral on 24 May 2001, becoming the first Naval Reservist three-star admiral in history to lead the Naval Reserve.

During his tenure, Naval Reserve Forces were mobilized three times: the Kosovo Campaign in 1999, Operation Noble Eagle in 2001 and Operation Iraqi Freedom in 2003. Under his leadership, Naval Reservists served with great honor, dedication and sacrifice during the global war on terrorism, in war zones in Afghanistan and Iraq, and here at home as part of the homeland defense network.

His family and fellow shipmates can be proud of his service. Vice Admiral Totushek, his wife Jan, and children Courtney and Chris have made many sacrifices during his Naval and civilian careers, and we appreciate their contributions of conscientious service to our country. As he departs the Pen-

tagon to start his third career, I call upon my colleagues to wish John and his family every success, and the traditional Navy "fair winds and following seas."•

#### THE DEATH OF MORRIS "MOE" BILLER

• Mr. LIEBERMAN. Mr. President, it saddens me to note the recent passing of an old friend, Moe Biller. Moe was, until 2001, the long-time president of the American Postal Workers Union, and a tireless advocate for the postal employees he worked with and represented.

I met Moe through my first Senate chief of staff, Michael Lewan, who was a long-time friend of Moe's from his days as a local union official in New York. Michael invited him to attend my Senate swearing-in ceremony, and we hit it off immediately.

Moe was one of a kind—some would say the last of the breed of old time labor leaders. He was passionate about the causes he believed in, but always remained just a "regular guy." It's fair to say that Moe was a pioneer who created the modern labor movement for Federal and postal employees. Surely he paved the way for the establishment of those employees' rights—postal workers, in particular, had little clout until Moe came along.

He began his career as a substitute postal clerk in 1937 on Manhattan's Lower East Side, earning 65 cents an hour with no vacation benefits or sick pay. His success in negotiating a sick leave benefit for his fellow workers led to the beginning of his rise through the ranks of the union hierarchy, which culminated in his election as President of the national union in 1980.

However, his national reputation as a fiery, but effective, leader was solidified a decade earlier in 1970, when his efforts encouraged Congress to pass the landmark legislation that created today's United States Postal Service, the Postal Reorganization Act of 1970. Among the important changes instituted by this law was the right postal workers received to engage in collective bargaining over pay, benefits, and working conditions.

In addition to his vital work to improve wages and working conditions for postal workers, Moe was an active supporter of civil rights and women's rights. He also gave generously of his time, serving on numerous trade, charitable, and civic organization boards, including the Muscular Dystrophy Association and the United Way International.

Moe will be sorely missed by all of those who knew him, but I know that his achievements and his work will live on. •

#### 75TH ANNIVERSARY OF MOTOROLA'S FOUNDING

• Mr. DURBIN. Mr. President, I rise today in recognition of the 75th anni-

versary of the founding of Motorola, Inc., which has been a significant icon in the history of America's heritage of innovation, while continually finding new ways to make things simpler, smarter, safer, synchronized, and fun.

On September 25, 1928, Paul V. Galvin and his brother, Joseph E. Galvin, opened the Galvin Manufacturing Corporation at 847 West Harrison Street, in Chicago, Illinois, with assets of \$1,315. Galvin Manufacturing Corporation entered the electronics industry as a manufacturer of household battery eliminators and grew steadily throughout the 1930s and 1940s, introducing a wide variety of devices to the electronics market.

In 1930, Galvin Manufacturing Corporation introduced the first practical, affordable and commercially successful car radio, and founder Paul V. Galvin created the brand name "Motorola," linking the ideas of "motion" and "sound." In 1936, the Police Cruiser radio receiver was Galvin Manufacturing Corporation's first entry into the new field of mobile radio communications, and in 1937, Galvin Manufacturing Corporation entered the home entertainment business with a line of phonographs and table and console radios.

Galvin Manufacturing Corporation also made significant contributions to our Nation's efforts during World War II. In 1940, Galvin Manufacturing Corporation developed the Handie-Talkie SCR536 radio, a handheld two-way radio, and provided more than 100,000 units of this crucial communications tool to the Allied Forces. In 1941, company founder Paul V. Galvin was elected president of the Radio Manufacturers Association, where he helped lead the radio industry's war efforts in the United States. Also in 1941, Galvin Manufacturing Corporation introduced its first commercial line of FM two-way radio systems and equipment, installing its first FM system in Philadelphia, Pennsylvania. In 1942, Galvin Manufacturing Corporation helped organize and lead the procurement and production of quartz radio crystals, eventually subcontracting production to more than 50 crystal manufacturers who, with Galvin Manufacturing Corporation, supplied more than 35 million radio crystals to the U.S. War Department during World War II. Later in 1942, Galvin Manufacturing Corporation received the first of five U.S. Army-Navy "E" Awards for excellence in production achievements during World War II, the first ever awarded to a radio manufacturer.

In 1943, Galvin Manufacturing offered its first sale of public stock, and in 1947, Galvin Manufacturing Corporation changed its name to Motorola, Inc. Motorola continued to be an innovator, by introducing technologies which have significantly impacted Americans' lives. In 1947, Motorola's first television, the Golden View model VT71, was priced to sell for under \$200 and was so well-received that 100,000

more units were sold in one year. In 1949, Motorola established a research and development operation in Phoenix, Arizona, to investigate the new field of solid-state technology, and by anticipating the enormous potential of the transistor, helped create the semiconductor industry and became one of the world's largest semiconductor manufacturers. In 1955, Motorola's new Handie-Talkie radio pocket pager selectively delivered a radio message to a particular individual, and pagers began to replace public announcement systems in hospitals and factories.

In 1956, Robert W. Galvin, Paul V. Galvin's son, became president of Motorola, Inc., serving the company devotedly, until his 2001 retirement. Robert W. Galvin currently serves Motorola as Chairman Emeritus.

Following the 1958 introduction of Explorer I, a 31-pound, Earth-orbiting satellite, Motorola provided radio equipment for most manned and unmanned U.S. space flights for the next 40 years. Also in 1958, Motorola introduced the Motrac radio, the first vehicular two-way radio to have a fully transistorized power supply and receiver, with such low power consumption that the radio could be used without running an automobile engine.

In 1961, Motorola developed low-cost techniques to produce silicon rectifiers used in automotive alternators, making the alternator an economical replacement for the less durable generator. In 1962, Motorola introduced the fully-transistorized Handie-Talkie HT200 portable two-way radio. In 1969, Astronaut Neil Armstrong's first words spoken from the moon were relayed to Earth by a Motorola radio transponder aboard the Apollo 11 lunar module.

In 1971, NASA's lunar roving vehicle used a Motorola FM radio receiver to provide a voice link over the 240,000 miles (386,000 km) between Earth and the moon, earning Motorola the credit for "the first car radio on the moon." In 1974, Motorola's first microprocessor, the MC6800, contained 4,000 transistors and was used in automotive, computing and video game applications. In 1975, Motorola transponders were used aboard the historic Apollo-Soyuz "Handshake in Space" docking mission. In 1978, Motorola introduced its first computer-controlled radio systems and equipment using trunking technology to help radio operators use crowded radio frequencies more efficiently. Also in 1978, Dr. Daniel E. Noble, Motorola director emeritus and former chief scientist, was awarded the Edison Medal by the Institute of Electrical and Electronics Engineers, which provided recognition from his peers for his role as a founder of the modern land mobile radio and semiconductor industries.

In 1980, Motorola was one of the first to develop computerized, electronic engine control modules that reduced fuel consumption and emissions. In 1983, the world's first commercial handheld cellular phone, the Motorola DynaTAC

phone, received approval from the U.S. Federal Communications Commission, culminating a 15-year, \$100 million investment in the development of cellular technology. In 1984, Motorola developed the MC68HC11 8-bit embedded controller for use in everyday consumer, automotive and industrial products. In 1986, the historic Voyager airplane, the first aircraft to make a non-stop, non-refueled flight around the world, used a Motorola satellite radio. In 1987, Motorola initiated its Six Sigma Quality Initiative, which launched a global pursuit of manufacturing and other process-oriented quality initiatives and established Motorola as a role model for global corporations. In 1988, Motorola was a winner of the first Malcolm Baldrige National Quality Award, established by the U.S. Congress to recognize and inspire the pursuit of quality in American business. In 1989, Motorola introduced the MicroTAC personal cellular telephone, which was the smallest and lightest cellular phone on the market.

In 1990, General Instrument Corporation was the first to propose an all-digital high-definition television (HDTV) technical standard. In 1991, Robert W. Galvin, former Motorola chairman and CEO, was awarded the National Medal of Technology by President George Bush, the highest honor bestowed by the President of the United States for technological achievement, "for advancement of the American electronics industry through continuous technological innovation, establishing Motorola as a world-class electronics manufacturer." In 1992, Motorola opened its first of more than 20 software centers. In 1995, Motorola developed the DragonBall MC68328 microprocessor that became widely used in consumer electronics applications, including handheld video games and personal digital assistants. In 1996, Motorola's 3.1-ounce (88 grams), StarTAC wearable cellular telephone was the world's smallest and lightest. Also in 1996, Motorola received the Albert F. Gore LifePage Achievement Award for donating 10,000 numeric pagers to patients waiting for organ transplants. Also in 1996, Motorola created the PageWriter pager, the world's first full-text two-way pager, which was selected for the permanent collections of the Smithsonian's National Museum of American History. Also in 1996, Christopher B. Galvin, grandson of Motorola founder Paul V. Galvin, was elected chief executive officer of Motorola, in 1996, assuming his responsibilities in 1997. In 1998, Motorola telematics automotive technologies provided vehicle occupants with location-specific security, information and entertainment services. Also in 1998, Motorola introduced the iDEN i1000 portable radio handset that combined two-way radio, telephone, text messaging and data transmission in a single unit.

In 2000, Motorola and General Instrument Corporation merged their businesses; the largest acquisition in

Motorola's history. Also in 2000, Motorola implemented the world's first commercial General Packet Radio Service (GPRS) cellular systems in the United Kingdom and Germany, providing always-on access to the Internet. Also in 2000, Motorola conducted the world's first 700MHz wideband high-speed data trial with public safety users, enabling advanced mission-critical solutions.

In 2001, Motorola introduced the i.250 wireless chipset for GSM/GPRS (Global System for Mobile Communications/General Packet Radio Service) cellular handset manufacturers. Also in 2001, Motorola's Project 25 and TETRA-compliant IP-based wireless communications systems were designed to enable public safety and first response users to transfer pictures, fingerprints, video and Internet-based data using two-way radios. Also in 2001, Motorola introduced its first metal mobile phone, the V60 phone, which a year later became available in all three cellular technologies—GSM, TDMA and CDMA—and quickly became a worldwide best seller. Also in 2001, Motorola's Broadband Communications Sector received an Emmy Award from the National Academy of Television Arts and Sciences (NATAS) for outstanding achievement in the development of consumer digital set-top boxes, marking Motorola's seventh Emmy win.

In 2002, Motorola launched its first 3G nationwide voice and data network using Code Division Multiple Access 1X (CDMA 1X) technology with KDDI, one of Japan's largest wireless operators, enabling Internet access at speeds more than double that of existing networks. Also in 2002, the Motorola Instant GPS chip was the first single-chip Global Positioning System receiver solution, a breakthrough technology that enabled designers to add accurate location sensing features to portable consumer electronics products. Also in 2002, Motorola's Commercial, Government and Industrial Solutions Sector was honored with the Malcolm Baldrige National Quality Award. In 2002, Motorola had achieved \$27.3 billion dollars in sales. On July 30, 2003, Motorola declared its 226th consecutive quarterly dividend.

Since 1974, Motorola has received more than 90 awards for workplace health and safety, community service and environmental stewardship from the United States Government and governments and non-government organizations worldwide. Motorola is today a global leader in wireless, automotive and broadband communications. Motorola is also a global corporate citizen dedicated to ethical business practices and pioneering important technologies that make things smarter and life better, honored traditions that began when the company was founded 75 years ago.

I would like to applaud the great impact that Motorola has had on the business, social, and cultural landscape for Americans and, indeed, citizens of all nations by virtue of its achievements throughout its remarkable 75-

year tradition of delivering on the power of technology to improve the way we live. I would like to recognize that Motorola's essence as an American icon has been and continues to be to link people's dreams with technology's promise.

I congratulate Motorola on finding new ways to make things simpler, smarter, safer, synchronized and fun for people around the world. I recognize that Motorola continues to demonstrate technological leadership, the highest standards of corporate responsibility and respect for the individual, all while continuing to lead the nation and the world into our technological future. I congratulate Motorola, on the achievements of its employees, retirees, suppliers, and distributors worldwide as they commemorate and celebrate the company's 75th anniversary while the company looks to deliver an even greater impact in the 21st century as a leading force in American technology superiority.●

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

#### THE IMPORTANCE OF WOMEN-OWNED SMALL BUSINESSES

● Mr. KERRY. Mr. President, I speak today to congratulate the 17 recipients of the Small Business Administration's Outstanding Women Entrepreneur Award.

These inventive and resourceful entrepreneurs are leaders in a national community of women's businesses, which continue to outpace all other companies in overall growth—in number of firms, employment and sales. Women-owned firms are constantly breaking down the barriers of our past and proving that the business world is no longer a boys-only club. As many in the small business community are aware, women-owned companies have become increasingly important to our Nation's jobs and economy. Today there are over 10.1 million women-owned firms, employing 18.2 million workers, and generating \$2.32 trillion in sales.

With assistance from the SBA, these 17 women honored during last week's Small Business Week have created businesses that serve as remarkable examples of successful entrepreneurship in a variety of industries.

Patricia Miller, Barbara Bradley Baekgaard, Rebecca Matthais, and Dr. Taryn Rose all started their own businesses in the fashion industry, relying on the SBA for loans and counseling. Patricia and Barbara created Vera Bradley Designs, a company that produces a popular line of luggage and handbags. Rebecca's company, Mothers Work, is now one of the leading providers of maternity clothes of women across the country. Taryn combined her medical knowledge as an orthopedic surgeon with her love of fashion to create a footwear company that is projecting to reach over \$20 million in sales this year.

The SBA has also helped several of these women break into male-dominated industries, like construction and defense. Donna Brinkmeyer-Asman of Clark Manufacturing, Lurita Doan of New Technology Management, and Carolyn Minerich of Carmin Industries have all created companies that have grown to include major defense-industry clients. Tina Cordova looked to the SBA's Small Business Development Center and SCORE programs to help her company, Qestion Construction, expand from 2 to 26 employees.

Kathryn Freeland, Marilyn Melkonian, Patty DeDominici, Nikki Olyai, Jeannette Lee White, and Julie Morgenstern all looked to the SBA to help them create their businesses. Now they are advising much larger businesses on potential employees, technology, and management issues.

These women and their employees are not only beneficiaries of their companies' successes. In addition to starting and growing successful businesses, these women have made significant contributions to their communities. Blue Crab Bay, started by award recipient Pamela Barefoot, creates specialty food items for seafood lovers and uses its profits to give back to the Chesapeake Bay community. The company has given back to its community through scholarships, charity events, and donations to groups like the Chesapeake Bay Foundation.

I would also like to recognize the accomplishments of awardees Heather Howitt, Judy George, and Maria Welch. Heather, along with cofounders Tedde McMillen, Carla Powell, and Lori Woolfrey, recognized a potential market for their traditional Chai drink, and now their company, Oregon Chai, sells its chai tea lattes at stores in all 50 States. Maria's company, Respira Medical, is a leading respiratory and durable home medical care equipment distributor in Maryland. Judy's Domain home furnishings company was recently featured on the popular television makeover program "Queer Eye for the Straight Guy."

I commend these 17 women for their creativity in business, their leadership for women entrepreneurs, and their generous contributions to their local communities. As the number of women business owners continues to grow—currently the number of women-owned businesses is growing at double the rate of all U.S. firms—we must do everything we can to ensure that these businesses have every opportunity to flourish. To that end, we are working to pass the Small Business Administration 50th Anniversary Reauthorization Act of 2003, legislation that will protect the extremely effective and well-established Women's Business Center network. With this bill we will also reestablish the Interagency Committee on Women's Business Enterprise to give women in business a greater voice in Federal policymaking. The 2003 SBA reauthorization legislation also closes the loopholes in Federal procurement

practice that have allowed agencies to bundle contracts and limit Federal contracting opportunities for small and women-owned businesses. In addition, this bill will strengthen all of the SBA's access to capital, entrepreneurial development, and contracting programs, including those that helped bring success to the 17 recipients of the Outstanding Women Entrepreneur Award.

I hope my colleagues in the Senate will join me and Senator SNOWE in recognizing the important contribution these women, and other women in business across America, make to our Nation's economy by passing the SBA Reauthorization Act of 2003 and fully funding the SBA's programs.●

#### MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2658) making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

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

S. 111. An act to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes.

S. 233. An act to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System.

S. 278. An act to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1113. An act to authorize an exchange of land at Fort Frederica National Monument, and for other purposes.

H.R. 1209. An act to extend the authority for the construction of a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

H.R. 1409. An act to provide for a Federal land exchange for the environmental, educational, and cultural benefit of the American public and the Eastern Band of Cherokee Indians, and for other purposes.

H.R. 2059. An act to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes.

H.R. 2533. An act to designate the facility of the United States Postal Service located at 10701 Abercorn Street in Savannah, Georgia, as the "J.C. Lewis, Jr. Post Office Building".

H.R. 2826. An act to designate the facility of the United States Postal Service located at 1000 Avenida Sanchez Osorio in Carolina, Puerto Rico, as the "Roberto Clemente Walker Post Office Building".

The message further announced that the House has agreed to the following

concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 21. Concurrent resolution commemorating the Bicentennial of the Louisiana Purchase.

The message also announced that pursuant to 20 U.S.C. 2004(b), and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Board of Trustees of the Harry S. Truman Scholarship Foundation: Mr. Skelton of Missouri.

At 1:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2555) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2003, and for other purposes.

At 3:12 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2657) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2004, and for other purposes.

#### MEASURES REFERRED

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

H.R. 1113. An act to authorize an exchange of land at Fort Frederica National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1209. An act to extend the authority for the construction of a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1409. An act to provide for a Federal land exchange for the environmental, educational, and cultural benefit of the American public and the Eastern Band of Cherokee Indians, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2533. An act to designate the facility of the United States Postal Service located at 10701 Abercorn Street in Savannah, Georgia, as the "J.C. Lewis, Jr. Post Office Building"; to the Committee on Governmental Affairs.

H.R. 2826. An act to designate the facility of the United States Postal Service located at 1000 Avenida Sanchez Osorio in Carolina, Puerto Rico, as the "Roberto Clemente Walker Post Office Building"; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 21. Concurrent resolution commemorating the Bicentennial of the Louisiana Purchase; to the Committee on the Judiciary.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2059. An act to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes.

#### 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-4328. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Determining Eligibility Requirements for Free and Reduced Price Meals in Schools—Verification, Reporting, and Recordkeeping Requirements" (RIN0584-AD20) received on September 23, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4329. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Exotic Newcastle Disease; Removal of Areas from Quarantine" (Doc. No. 02-117-10) received on September 23, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4330. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture, at the request of a participating State, to convey to the State, by quitclaim deed, without consideration, any land or interests in land acquired within the State under the Forest Legacy Program; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4331. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bifenazate; Pesticide Tolerance" (FRL#7328-1) received on September 22, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4332. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imazapy; Pesticide Tolerance" (FRL#7321-4) received on September 22, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4333. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Thiacloprid; Pesticide Tolerance" (FRL#7325-8) received on September 22, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4334. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Etoxazole; Pesticide Tolerance" (FRL#7324-8) received on September 22, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4335. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flufenpyr-Ethyl; Pesticide Tolerance" (FRL#7325-4) received on September 22, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4336. A communication from the Deputy Secretary of Defense, transmitting the report of a retirement; to the Committee on Armed Services.

EC-4337. A communication from the Acting Assistant of the Army, Civil Works, Department of the Army, transmitting a report relative to rehabilitation and modification of dams in Minnesota constructed by the Works Progress Administration, the Works Projects Administration, and the Civilian Conservation Corps; to the Committee on Armed Services.

EC-4338. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas" (FCC03-115) received on September 22, 2003; to the Committee on Armed Services.

EC-4339. A communication from the Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "TRICARE; Elimination of Nonavailability Statement and Referral Authorization Requirements and Elimination of Specialized Treatment Services Program" (RIN0720-AA79) received on September 22, 2003; to the Committee on Armed Services.

EC-4340. A communication from the Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Changes Included in the National Defense Authorization Act for Fiscal Year 2003" (RIN0729-AA85) received on September 22, 2003; to the Committee on Armed Services.

EC-4341. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the Secretary of the Army's report of the operational evaluation of the initial Stryker Brigade Combat Team (SBCT); to the Committee on Armed Services.

EC-4342. A communication from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation Z (Truth in Lending)" (Doc. R-1157) received on September 23, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-4343. A communication from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation B (Equal Credit Opportunity Act)" received on September 23, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-4344. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the national emergency with respect to persons who commit, threaten to commit, or support terrorism that was declared in Executive Order 13224; to the Committee on Banking, Housing, and Urban Affairs.

EC-4345. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Herring Fishery Management Plan Final Rule; Partial Delay" (RIN0648-A178) received on September 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4346. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of 200 Biennial Regulatory Review—Requirements Governing the NECA Board of Directors Under Section 69.602 of the Commission's Rules and Requirements for the Computation of Average Schedule Company Payments Under Section

69.606 of the Commission's Rules" (FCC03-151) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4347. A communication from the Assistant Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Access Charge Reform, Price Cap Performance Review for LEC's, Low-Volume Long Distance Users, and Federal-State Joint Board on Universal Service" (FCC03-170) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4348. A communication from the Deputy Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers" (FCC03-36) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4349. A communication from the Chief, Endangered Species Division, Office of Protected Resources, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Conservation Requirements; Restrictions to Commercial Fishing Operations" (RIN0648-AP91) received on September 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4350. A communication from the Chief, Endangered Species Division, Office of Protected Resources, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Conservation Requirements; Pound Net Fishery" (RIN0648-AP81) received on September 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4351. A communication from the Chief, Endangered Species Division, Office of Protected Resources, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife: Sea Turtle Conservation Requirements; Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations" (RIN0648-AP40) received on September 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4352. A communication from the Chief, Endangered Species Division, Office of Protected Resources, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Conservation; Summer Flounder Trawling Requirements" (RIN0648-AM89) received on September 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4353. A communication from the Chief, Endangered Species Division, Office of Protected Resources, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Conservation Requirements; Resuscitation and Safe Handling" (RIN0648-AN64) received on September 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4354. A communication from the Chief, Endangered Species Division, Office of Protected Resources, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Conservation Requirements; Restrictions to Commercial Fishing Operations" (RIN0648-AP91) received on September 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4355. A communication from the Chief, Endangered Species Division, Office of Protected Resources, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Conservation; Shrimp Trawling Requirements—Parker Soft TED" (RIN0648-AK66) received on September 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4356. A communication from the Chief, Endangered Species Division, Office of Pro-

tected Resources, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Conservation; Restrictions to Fishing Activities" (RIN0648-AP63) received on September 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4357. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, transmitting, pursuant to law, the report of a rule entitled "Amend Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range, Third Report and Order" (ET Doc. No. 98-206) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4358. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, transmitting, pursuant to law, the report of a rule entitled "Amend Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range" (ET Doc. No. 98-206) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4359. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Okeechobee, Florida)" (MB Doc. No. 03-89) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4360. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Fort Stockton and Sanderson, Texas)" (MB Doc. No. 03-68) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4361. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Bunnell and Palm Coast, Florida)" (MM Doc. No. 03-13) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4362. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Valliant, Oklahoma and Gainesville, Texas)" (MM Doc. No. 01-216) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4363. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Pelham and Meigs, Georgia)" (MB Doc. No. 03-58) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4364. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Lincoln City and Monmouth, Oregon)" (MB Doc. No. 03-41) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4365. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Grants and Bosque Farms, New Mexico)" (MM Doc. No. 01-78) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4366. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Port St. Joe and Eastpoint, Florida)" (MB Doc. No. 03-21) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4367. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Sonora Texas)" (MB Doc. No. 03-88) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4368. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (George West, Texas)" (MB Doc. No. 03-86) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4369. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Dalhart, Kermit, and Leakey, Texas)" (MB Doc. No. 03-52, -53, and -54) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4370. A communication from the Assistant Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Federal-State Joint Board on Universal Service" (FCC03-164) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4371. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Magnolia, Arkansas and Oil City, Louisiana)" (MB Doc. No. 02-199) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4372. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Clayton and Thomas, Oklahoma; Ghturie, Hebronville, Premont, Roaring Springs, Rocksprings, and Sanderson, Texas)" (MB Doc. Nos. 02-240 thru 02-249) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4373. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Ridgecrest, California)" (MB Doc. No. 03-79) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.



EC-4374. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Bridgeton and Pennsauken, New Jersey)" (MB Doc. No. 02-382) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4375. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Noblesville, Indianapolis, and Fishers, Indiana)" (MB Doc. No. 01-143) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4376. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Los Banos and Planada, California)" (MB Doc. No. 02-186) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4377. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations. (Cadillac and Manistee, MI)" (MB Doc. No. 02-45) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4378. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations. (Billings, MT)" (MB Doc. No. 02-116) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4379. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Owens, Winconsin)" (MB Doc. No. 02-120) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4380. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations. (Christiansted, VI)" (MB Doc. No. 03-20) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4381. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations. (Odessa, TX)" (MB Doc. No. 02-90) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4382. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations. (Charleston, WV)" (MB Doc. No. 02-155) received on September 22, 2003; to the

Committee on Commerce, Science, and Transportation.

EC-4383. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations. (Burlington, VT)" (MB Doc. No. 02-82) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4384. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations. (Anchorage, AK)" (MB Doc. No. 00-99) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4385. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Laramie, Wyoming and Timnath, Colorado)" (MM Doc. No. 02-365) received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4386. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closing Directed Fishing for Pelagic Shelf Rockfish in the Western Yakutat District of the Gulf of Alaska" received on September 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4387. A communication from the Executive Director, Consumer Product Safety Commission, transmitting, pursuant to law, the Commission's inventories of commercial and inherently governmental activities for 2003; to the Committee on Commerce, Science, and Transportation.

EC-4388. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the Commission's Annual report for Fiscal Year 2002; to the Committee on Commerce, Science, and Transportation.

EC-4389. A communication from the Assistant Secretary for Communications and Information, Department of Commerce, transmitting, pursuant to law, a report entitled "Electronic Signatures: Review of the Exceptions to the Electronic Signatures in Global and National Commerce Act"; to the Committee on Commerce, Science, and Transportation.

EC-4390. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Financial Assistance Regulations" (RIN1991-AB57) received on September 23, 2003; to the Committee on Energy and Natural Resources.

EC-4391. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Compliance With Floodplain and Wetland Environment Review Requirements" (RIN1901-AA94) received on September 23, 2003; to the Committee on Energy and Natural Resources.

EC-4392. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Value Engineering" (AL2003-04) received on

September 23, 2003; to the Committee on Energy and Natural Resources.

EC-4393. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Collection of Claims Owed the United States" (RIN1901-AA98) received on September 23, 2003; to the Committee on Energy and Natural Resources.

EC-4394. A communication from the Director, Office of Congressional Affairs, Nuclear Material Safety and Safeguards, transmitting, pursuant to law, the report of a rule entitled "Geological and Seismological Characteristics for Siting and Design of Dry Cask Independent Spent Fuel Storage Installations and Monitored Retrievable Storage Installations" (RIN3150-AG93) received on September 17, 2003; to the Committee on Environment and Public Works.

EC-4395. A communication from the Director, Office of Congressional Affairs, Nuclear Material Safety and Safeguards, transmitting, pursuant to law, the report of a rule entitled "Consolidated NMSS Decommissioning Guidance, NUREG-1757" received on September 17, 2003; to the Committee on Environment and Public Works.

EC-4396. A communication from the Director, Office of Congressional Affairs, Nuclear Material Safety and Safeguards, transmitting, pursuant to law, the report of a rule entitled "Combustible Gas Control in Containment" (RIN3150-AG76) received on September 17, 2003; to the Committee on Environment and Public Works.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Special Report entitled "Report on the Activities of the Committee on the Judiciary During the 107th Congress." (Rept. No. 108-152).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2004" (Rept. No. 108-153).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 1640. A bill to provide an extension of highway programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (Rept. No. 108-154).

## 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. CAMPBELL (for himself and Mr. JOHNSON):

S. 1647. A bill to amend title XVIII of the Social Security Act to provide for direct access to audiologists for Medicare beneficiaries, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1648. A bill to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust; to the Committee on Indian Affairs.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1649. A bill to designate the Ojito Wilderness Study Area as wilderness, to take



certain land into trust for the Pueblo of Zia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STEVENS:

S. 1650. A bill for the relief of Katarina Galovic; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 1651. A bill for the relief of Gustav F. K. Wallner; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. DEWINE, Mr. LEAHY, Mr. KOHL, Mr. SCHUMER, Mr. FEINGOLD, Mr. HARKIN, Mr. LEVIN, Mr. LAUTENBERG, Mr. VOINOVICH, and Mr. PRYOR):

S. 1652. A bill to ratify the do-not-call registry provision of the Telemarketing Sales Rule, as amended by the Federal Trade Commission, effective March 31, 2003; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUE:

S. 1653. A bill to ensure that recreational benefits are given the same priority as hurricane and storm damage reduction benefits and environmental restoration benefits; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself and Mr. HOLLINGS):

S. 1654. A bill to ratify the authority of the Federal Trade Commission to establish a do-not-call registry; to the Committee on Commerce, Science, and Transportation.

#### ADDITIONAL COSPONSORS

S. 59

At the request of Mr. INOUE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 429

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 429, a bill to amend the Internal Revenue Code of 1986 to regulate certain 50 caliber sniper weapons in the same manner as machine guns and other firearms, and for other purposes.

S. 617

At the request of Mr. LIEBERMAN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 617, a bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes.

S. 623

At the request of Mr. WARNER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 852

At the request of Mr. DASCHLE, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor

of S. 852, a bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes.

S. 874

At the request of Mr. TALENT, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 1222

At the request of Mr. NELSON of Nebraska, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1246

At the request of Mr. ROBERTS, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 1246, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 1292

At the request of Ms. LANDRIEU, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1292, a bill to establish a servitude and emancipation archival research clearinghouse in the National Archives.

S. 1353

At the request of Mr. BROWNBACK, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1353, a bill to establish new special immigrant categories.

S. 1510

At the request of Mr. LEAHY, the name of the Senator from California

(Mrs. BOXER) was added as a cosponsor of S. 1510, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. 1524

At the request of Mr. SANTORUM, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1524, a bill to amend the Internal Revenue Code of 1986 to allow a 7-year applicable recovery period for depreciation of motorsports entertainment complexes.

S. 1545

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1618

At the request of Mr. ROCKEFELLER, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1618, a bill to reauthorize Federal Aviation Administration Programs for the period beginning on October 1, 2003, and ending on March 31, 2004, and for other purposes.

S. 1637

At the request of Mr. GRASSLEY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

S. CON. RES. 70

At the request of Mr. WYDEN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. Con. Res. 70, a concurrent resolution supporting National Funeral Service Education Week.

S. RES. 78

At the request of Ms. STABENOW, her name was added as a cosponsor of S. Res. 78, a resolution designating March 25, 2003, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

S. RES. 219

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Missouri (Mr. TALENT), the

Senator from Maine (Ms. SNOWE) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. Res. 219, a resolution to encourage the People's Republic of China to establish a market-based valuation of the yuan and to fulfill its commitments under international trade agreements.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL (for himself and Mr. JOHNSON):

S. 1647. A bill to amend title XVIII of the Social Security Act to provide for direct access to audiologists for medicare beneficiaries, and for other purposes; to the Committee on Finance.

Mr. CAMPBELL. Mr. President, today I am introducing legislation which would give Medicare recipients the same hearing care options available to veterans and Senators. Specifically, it would give Medicare beneficiaries direct access to qualified, licensed audiologists. I am pleased to be joined in this effort by my colleague, Senator TIM JOHNSON.

Today, approximately 28 million Americans are hearing disabled. Many of them are older Americans—a statistic that is fast increasing with the aging of the “baby boomers.” With 80 to 90 percent of hearing problems not medically or surgically treatable, it seems only reasonable that Medicare patients be allowed to consult with an audiologist without first seeing another provider. It is part of regular audiological practice to refer patients for medical management when clinical indicators are present.

In the 1990's, the Department of Veterans Affairs (VA) and the Office of Personnel Management changed their respective healthcare policies to allow for the option of direct access to a licensed audiologist. Earlier this year, I wrote the VA asking if veterans were satisfied with that coverage for audiological services. According to the VA response, “The policy has provided and continues to provide high quality, cost effective, and successful hearing health care to veterans.” It is important to point out that this bill would not diminish the important role of medical doctors, or expand the scope of practice for audiology.

This legislation is consumer friendly. It will help our elderly and rural citizens who often find it difficult to access health care services. It will provide consistency of policy among Government agencies. That is why I urge my colleagues to act quickly on 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. 1647

*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 “Hearing Health Accessibility Act of 2003”.

#### SEC. 2. DIRECT ACCESS TO QUALIFIED AUDIOLOGISTS FOR MEDICARE BENEFICIARIES.

Section 1861(l)(2) of the Social Security Act (42 U.S.C. 1395x(l)(2)) is amended by inserting before the period at the end the following: “, without regard to any requirement that the individual receiving the audiology services be under the care of (or referred by) a physician or other health care practitioner or that such services are provided under the supervision of a physician or other health care practitioner”.

#### SEC. 3. INCLUSION OF AUDIOLOGY SERVICES AS A PART B MEDICAL SERVICE; PAYMENT.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (U), by striking “and” after the semicolon at the end;

(2) in subparagraph (V)(iii), by inserting “and” after the semicolon at the end; and

(3) by adding at the end the following new subparagraph:

“(W) audiology services (as defined in subsection (l)(2));”.

(b) PAYMENT UNDER THE PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(W),” after “(2)(S),”.

#### SEC. 4. CONSTRUCTION; EFFECTIVE DATE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed to expand the scope of audiology services for which payment may be made under title XVIII of the Social Security Act as of December 31, 2003.

(b) EFFECTIVE DATE.—The amendments made by this Act shall take effect with respect to services furnished on or after January 1, 2004.

Mr. JOHNSON. Mr. President, today I am happy to join my colleague, Senator CAMPBELL, in introducing legislation that will provide millions of seniors with direct access to important audiology services through the Medicare Program.

Approximately 28 million people in the U.S. have some degree of reduced hearing sensitivity, and of this number, 80 percent have irreversible hearing loss. The majority of these individuals are 65 and older, and as the baby boom generation ages, this number will skyrocket. Hearing loss is the 3rd most prevalent chronic condition in the older population. One in three people older than 60 and half of those older than 85 have a hearing loss problem and only about one-fourth of those who could benefit from a hearing aid actually use one.

Hearing problems can make it difficult to understand and follow a doctor's advice, respond to warnings, and to hear doorbells and alarms. They can also take away from the enjoyment of the simple things in life, like talking to friends and family, or listening to the radio or television. Additionally, the 21st century work environment requires intense use of communication and information skills and technologies. As seniors continue to remain in the workforce for longer periods, work-related hearing challenges will become increasingly evident and the individual who has a communication

disability, disorder, or difference will be at a distinct disadvantage.

This legislation will help seniors challenged by hearing problems obtain direct access to licensed audiologists through the Medicare Program. Because most of these hearing conditions are not medically or surgically treatable, direct access to audiology services will allow comprehensive and timely care through the diagnosis, treatment, and management of hearing loss. Audiologists can conduct a variety of specialized auditory assessments and based on such examinations, can present numerous options to help patients cope with hearing problems. This legislation will not diminish the important role of primary care physicians, who closely with audiologists and will remain intimately involved in patient care as needed under this bill.

Direct access to such audiology services is supported by numerous governmental agencies. The Centers for Disease Control and Prevention has recognized the importance of this issue by making access by persons with hearing impairments to rehabilitative services a Health People 2010 objective. Additionally, the Veteran's Administration and Office of Personnel Management have established policies to allow beneficiaries such access. Seniors under the Medicare Program deserve similar benefits, and I urge my colleagues to support this important bill.

By Mrs. FEINSTEIN:

S. 1648. A bill to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust; to the Committee on Indian Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation that would partially repeal language from the Omnibus Indian Advancement Act of 2000; language that circumvents the Indian Gaming Regulatory Act's common-sense protections and regulatory safeguards against the inappropriate siting of Nevada-style casinos.

In 2000, a one-paragraph provision was attached to the Omnibus Indian Advancement Act taking land into trust for a single Indian tribe, the Lytton, with the aim of allowing the tribe to expedite plans to establish a large gaming complex in San Pablo, CA.

The site which is not part of, nor adjacent to, any land traditionally held by the Lytton is, in fact, a 10-acre property which includes a card club and parking lot, and is located in a major urban area just outside of San Francisco. The process to bring this land into trust and sidestep gaming oversight was done without regard for Federal laws currently in place to regulate the siting of such a casino.

Today California is home to 109 federally recognized tribes. 64 tribes have gaming compacts with the State and there are 54 tribal casinos. With more than 50 tribes seeking Federal recognition and approximately 25 recognized

tribes seeking gaming compacts from the Governor, revenues from California's tribal gaming industry are expected to be the highest of any State's by the end of the decade.

I have serious reservations about the expansion of Nevada-style gaming—with its slot machines and in-house banking—into urban areas, and I am particularly concerned about off-reservation gambling and “reservation shopping”. Off-reservation casinos often cause counties additional costs in public and local services, intrude on residential areas, and are responsible for an increase of traffic and crime within local communities.

That said, under proper regulation, gaming in California has the potential to yield much needed benefits for tribal members in terms of healthcare, education and general welfare, as Congress and California voters intended. However, the question is not whether gaming should be permitted, but rather how and where. Those questions have been appropriately addressed by the Indian Gaming Regulatory Act.

Without this legislation, the Lytton will be able to take a former card club and the adjacent parking lot as their reservation and turn it into a large gambling complex outside the regulations set up by the Indian Gaming Regulatory Act. Allowing this to happen would set a dangerous precedent not only for California, but every State where tribal gaming is permitted.

The changes I seek today are extremely limited. This legislation would not reverse restoration of the tribe. It would not infringe on Native American sovereignty. It does not even block the casino proposal. It only seeks to give the State and the local communities a voice in the process and ensure that gaming continues to be organized within the framework of the Indian Gaming Regulatory Act.

Circumventing the processes for Federal recognition of tribal governments and for granting land into trust presents a variety of serious and critical multi-jurisdictional issues—issues which can negatively affect the lives of ordinary citizens and deprive local governments of their political power to protect their communities.

That is why I believe it is important to seek a remedy which would restore the Indian Gaming Regulatory Act's oversight over the matter.

The Indian Gaming Regulatory Act has provided this Nation with a fair and balanced approach to Indian gaming by facilitating tribal plans for economic recovery without compromising a multitude of factors that should be taken into account when deciding on the siting of casinos. This law works. It is a fair process that should continue to be followed.

It is simply not asking too much to require that Lytton be subject to the regulatory and approval processes applicable to newly acquired tribal lands by the Indian Gaming Regulatory Act.

I hope my colleagues will support this legislation and I look forward to

working with the Chairman and Ranking Member of the Indian Affairs Committee to pass this legislation quickly.

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. 1648

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

**SECTION 1. LYTTON RANCHERIA OF CALIFORNIA.**

Section 819 of the Omnibus Indian Advancement Act (114 Stat. 2919) is amended by striking the last sentence.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1649. A bill to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am proud to introduce the “Ojito Wilderness Act”, a wilderness bill that has broad support in New Mexico. This bill designates the State's fourth Bureau of Land Management Wilderness area, and its first new wilderness area in more than 15 years. Keeping in mind Theodore Roosevelt's statement that “there are no words that can tell the hidden spirit of the wilderness, that can reveal its mystery, its melancholy, and its charm,” the Ojito can be described as nearly 11,000 acres of dramatic landforms and multi-colored rock formations, with sculptured badlands, expansive plateaus and mesa tops, a high density of cultural and archaeological sites and paleontological resources, and a diverse array of plant and animal species. It is an area that is big enough to get lost in, but small enough that it will not change the fact that only one percent of New Mexico's BLM lands are designated as wilderness. The bill also provides for the acquisition of some adjacent public lands by the Pueblo of Zia for preservation as public open space. I am pleased that the senior Senator from New Mexico, Senator DOMENICI, is cosponsoring this bill and that my distinguished colleague from the Third District of New Mexico, Representative UDALL, is introducing a companion measure in the House of Representatives.

The support for this proposal truly is impressive. It has been formally endorsed by the Governor of New Mexico; the local Sandoval County Commission and the neighboring Bernalillo County Commission; the Albuquerque City Council; New Mexico House of Representatives Energy and Natural Resources Committee Chairman James Roger Madalena; the Governors of the Pueblos of Zia, Santa Ana, Santo Domingo, Cochiti, Tesuque, San Ildefonso, Pojoaque, Nambé, Santa Clara, San Juan, Sandia, Laguna, Acoma, Isleta, Picuris, and Taos; the National Congress of American Indians; the Hopi

Tribe; The Wilderness Society; the New Mexico Wilderness Alliance; the Coalition for New Mexico Wilderness, on behalf of more than 375 businesses and organizations; the Rio Grande Chapter of the Sierra Club; the National Parks and Conservation Association; the Albuquerque Convention and Visitors Bureau; 1000 Friends of New Mexico; and numerous individuals.

The designation of the Ojito Wilderness was recommended by Secretary of the Interior Manuel Lujan, Jr.—a former New Mexico Congressman of 20 years—in 1991. Secretary Lujan found the Ojito to have “high quality wilderness values” with “outstanding opportunities for solitude and primitive and unconfined recreation,” as well as “outstanding photographic and sight-seeing opportunities.” The “close proximity to the Albuquerque and Santa Fe population centers, cultural and paleontological special features, and the lack of resource conflicts” made the recommendation particularly strong. President George H.W. Bush concurred in the recommendation and forwarded it to Congress for designation. This bill adopts the boundaries recommended at that time, so there should be no question or dispute that all of the lands proposed for wilderness in this bill fully qualify for wilderness status under the Wilderness Act.

This bill also takes advantage of a unique opportunity to benefit both the Pueblo and the public by authorizing the Pueblo to acquire some public lands that are sandwiched between the Zia Reservation and the Ojito Wilderness Study Area. The general public will benefit from the assurance that these lands will be protected for the future, forming a protective buffer around the Ojito Wilderness and providing additional opportunities for primitive public recreation. This bill secures continued public access to this open space for recreational, scenic, paleontological, scientific, educational, and conservation uses.

While these lands are—and will remain—important to the public, they have special importance to the Pueblo and its people. These lands are part of the Pueblo's aboriginal land base, and they harbor many cultural, religious, historical, and archaeological sites of great import to the Pueblo. By acquiring these lands, the Pueblo will finally unite the two non-contiguous parts of its Reservation. The Pueblo may continue to graze its cattle on these lands, but it is prohibited from using the lands for housing, gaming, mining, or other commercial enterprises.

The Pueblo will purchase these lands for fair market value, which will, of course, take into consideration the restrictions and prohibitions on various uses, the requirement that the natural characteristics of the land be preserved in perpetuity, and the guarantee that public access be maintained. Existing rights are protected, so, for example, the main access road will remain a county road and the existing pipelines

and transmission line will be unaffected. The Pueblo also has agreed to recognize the grazing privileges of a neighboring ranch that has the only other outstanding grazing permit on the lands to be transferred, and it is working on memorializing that agreement.

The New Mexico Commissioner of Public Lands, Patrick H. Lyons, supports this transfer. In a letter endorsing the proposal, he told the Pueblo that it "makes sense from a management perspective, and I applaud your efforts to address this matter in a cooperative manner. Once transferred, I am confident that the Pueblo of Zia will manage its acquisition with the same sensitivity with which it manages all its lands." I agree, and this bill authorizes the Pueblo to manage this land pursuant to regulations that are approved by the Secretary of the Interior.

I am particularly pleased to introduce this legislation in celebration of the upcoming 40th anniversary of the Wilderness Act of 1964 and the eightieth anniversary of the Nation's first administratively-designated wilderness. This celebration is particularly meaningful to my State of New Mexico, for it is both the proud birthplace of wilderness and the home to two of its fathers: Aldo Leopold, who worked from Albuquerque for 15 years to create in 1924 the Gila wilderness near my home in southern New Mexico, and New Mexico Senator Clinton Anderson, who was instrumental in codifying Aldo Leopold's wilderness and ethic 40 years later.

Forty years later still, the Ojito provides a unique wilderness area that is important not only to its local stewards, but also to the nearby residents of Albuquerque and Santa Fe, as well as visitors from across the country. It is an outdoor geology laboratory, offering a spectacular and unique opportunity to view from a single location the juxtaposition of the southwestern margin of the Rocky Mountains, the Colorado Plateau, and the Rio Grande Rift, along with the volcanic necks of the Rio Puerco Fault. Its rugged terrain offers a rewarding challenge to hikers, backpackers, and photographers. It shelters ancient Puebloan ruins and an endemic endangered plant, solitude and inspiration.

The words of Aldo Leopold and Senator Clinton Anderson are fitting for the Ojito, for it is "what the land was, what it is, and what it ought to be"; let this "Ojito Wilderness Act" be "a demonstration by our people that we can put aside a portion of this which we have as a tribute to the Maker and say this we will leave as we found it."

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. 1649

*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 "Ojito Wilderness Act".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Ojito Wilderness Study Area, located in Sandoval County, New Mexico, contains dramatic landforms and rock structures, multicolored badlands, expansive plateaus and mesa tops, and a high density of cultural and archaeological sites, paleontological resources, and diverse plant and animal species;

(2) the Bureau of Land Management evaluated the Ojito area and found that the area has sufficient land area and natural characteristics to qualify for full wilderness status and protection;

(3) in 1992, President George H.W. Bush concurred with the recommendation of Secretary of the Interior Manuel Lujan, Jr., that Congress designate the Ojito Wilderness based on the high quality wilderness values, close proximity to the Albuquerque and Santa Fe population centers, cultural and paleontological special features, and the lack of resource conflicts in the area;

(4) the Pueblo of Zia has worked in cooperation with other interested parties to reach an agreement under which the Pueblo would acquire public land adjacent to the Zia Reservation and the Ojito Wilderness Study Area that would—

(A) enhance the protections for the land in the Ojito area; and

(B) ensure that the land will remain open to the public for recreational, scenic, scientific, educational, paleontological, and conservation uses; and

(5) the transfer of certain parcels of public land to the Pueblo of Zia and the designation of the Ojito Wilderness as a component of the National Wilderness Preservation System—

(A) is in the best interest of people of the State of New Mexico and people from other States;

(B) would preserve and maintain the Ojito as an enduring resource of wilderness; and

(C) would provide for the management and promotion of the wilderness character and various resources of the Ojito area for wildlife habitat protection, scenic and historic preservation, scientific research and education, primitive recreation, solitude, and inspiration for present and future generations of the people of the United States.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **PUEBLO.**—The term "Pueblo" means the Pueblo of Zia.

(2) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(3) **STATE.**—The term "State" means the State of New Mexico.

(4) **TRUST AREA MAP.**—The term "Trust Area map" means the map entitled "Lands Transferred to Pueblo of Zia—Proposed", numbered \_\_\_\_\_, and dated \_\_\_\_\_.

(5) **WILDERNESS.**—The term "Wilderness" means the Ojito Wilderness designated under section 4.

(6) **WILDERNESS MAP.**—The term "Wilderness map" means the map entitled "Ojito Wilderness Study Area: Ojito Proposal", numbered NM-010-024, and dated April 1990.

**SEC. 4. DESIGNATION OF THE OJITO WILDERNESS.**

(a) **IN GENERAL.**—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System,

certain land in the Albuquerque District-Bureau of Land Management, New Mexico, which comprise approximately 10,903 acres, as generally depicted on the Wilderness map, and which shall be known as the "Ojito Wilderness".

(b) **MAP AND LEGAL DESCRIPTION.**—The Wilderness map and a legal description of the Wilderness shall—

(1) be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives as soon as practicable after the date of the enactment of this Act;

(2) have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the legal description and Wilderness map; and

(3) be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) **MANAGEMENT OF WILDERNESS.**—Subject to valid existing rights, the Wilderness shall be managed by the Secretary, as appropriate, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to the Wilderness, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) **MANAGEMENT OF NEWLY ACQUIRED LAND.**—Any land within the boundaries of the Wilderness that is acquired by the Federal Government shall become part of the Wilderness within which the land is located and shall be managed in accordance with this Act and other laws applicable to the Wilderness.

(e) **GRAZING.**—Grazing of livestock in the Wilderness, where established before the date of enactment of this Act, shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)).

(f) **FISH AND WILDLIFE.**—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this section shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

**SEC. 5. LAND HELD IN TRUST.**

(a) **IN GENERAL.**—Subject to valid existing rights and the conditions under subsection (d), all right, title, and interest of the United States in and to the lands (including improvements, appurtenances, and mineral rights to the lands) generally depicted on the Trust Area map shall, on receipt of consideration under subsection (c) and adoption and approval of regulations under subsection (d), be declared by the Secretary to be held in trust by the United States for the Pueblo and shall be part of the Pueblo's Reservation.

(b) **MAP AND LEGAL DESCRIPTION.**—The Trust Area map and a legal description of the land described in subsection (a) shall—

(1) be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives as soon as practicable after the date of the enactment of this Act;

(2) have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the legal description and Trust Area map; and

(3) be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) **CONSIDERATION.**—

(1) **IN GENERAL.**—In consideration for the conveyance authorized under subsection (a),

the Pueblo shall pay to the Secretary the amount that is equal to the fair market value of the land conveyed, as subject to the terms and conditions in subsection (d), as determined by an independent appraisal.

(2) **AVAILABILITY.**—Any amounts paid under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition from willing sellers of land or interests in land in the State.

(d) **PUBLIC ACCESS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the declaration of trust and conveyance under subsection (a) shall be subject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses, subject to any regulations for land management and the preservation, protection, and enjoyment of the natural characteristics of the land that are adopted by the Pueblo and approved by the Secretary.

(2) **CONDITIONS.**—

(A) **IN GENERAL.**—The land conveyed under subsection (a) shall be maintained as open space, and the natural characteristics of the land shall be preserved in perpetuity.

(B) **PROHIBITED USES.**—The use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed under subsection (a).

(e) **JUDICIAL RELIEF.**—

(1) **IN GENERAL.**—To enforce subsection (d), any person may bring a civil action in the United States District Court for the District of New Mexico seeking declaratory or injunctive relief.

(2) **SOVEREIGN IMMUNITY.**—The Pueblo shall not assert sovereign immunity as a defense or bar to a civil action brought under paragraph (1).

(3) **EFFECT.**—Nothing in this section—

(A) authorizes a civil action against the Pueblo for money damages, costs, or attorneys fees; or

(B) except as provided in paragraph (2), abrogates the sovereign immunity of the Pueblo.

(f) **EFFECT.**—Nothing in this section shall have the effect of terminating or affecting the renewal of any validly issued right-of-way or the customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted by the Secretary on the date of enactment of this Act.

By Mr. INOUE:

S. 1653. A bill to ensure that recreational benefits are given the same priority as hurricane and storm damage reduction benefits and environmental restoration benefits; to the Committee on Environment and Public Works.

Mr. INOUE. Mr. President, I rise to introduce the National Beach Recreation and Economic Benefits Act. This measure would require the U.S. Army Corps of Engineers, Army Corps, to give recreational benefits the same priority as hurricane and storm damage reduction benefits when justifying beach restoration projects.

The Army Corps performs a valuable service in protecting our nation's beaches against erosion. They have effectively restored and repaired damaged beaches for over the past 50 years. Unfortunately, under current policy,

the Army Corps only authorizes and funds beach restoration projects that protect property against storm and hurricane damage. The Army Corps does not recommend authorization or funding of beach restoration projects that only provide recreational benefits.

Beaches help support tourism and serve as an important source of fun for many Americans who seek inexpensive recreation. Many of these beaches are not eligible for beach restoration because they lack sufficient structural development along coastlines to warrant a restoration project solely on the basis of storm or hurricane damage reduction. While local governments and communities have taken proactive measures to avert flood damage, they are being denied the much needed beach restoration assistance by the Army Corps.

In addition, by limiting beach restoration projects to storm and hurricane damage reduction, the Army Corps has established a policy that inadvertently aids more developed shorelines than others. The method for determining storm and hurricane damage reduction benefits is based on the assessed value of the private property and public infrastructure immediately adjacent to the beach. Therefore, the benefits will be much higher for densely developed shorelines than less densely developed shorelines. For example, a high-rise residential condominium or hotel would provide more storm reduction benefits than a single family home.

Accordingly, the National Beach Recreation and Economic Benefits Act will ensure that recreation benefits are accorded the same considerations as storm and hurricane damage reduction benefits. I urge my colleagues to support this measure. I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 1653

*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 "National Beach Recreation and Economic Benefits Act".

#### SEC. 2. GOALS TO BE ADDRESSED IN PLANNING OF WATER RESOURCE PROJECTS.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281) is amended to read as follows:

#### "SEC. 904. GOALS TO BE ADDRESSED IN PLANNING OF WATER RESOURCE PROJECTS.

"(a) **IN GENERAL.**—Each of the goals of enhancing national economic development, the quality of the total environment, the well-being of the people of the United States, the prevention of loss of life, and the preservation of cultural and historical values shall be addressed in the formulation and evaluation of water resources projects to be carried out by the Secretary.

"(b) **DISPLAY OF ASSOCIATED BENEFITS AND COSTS.**—The quantifiable and unquantifiable costs and benefits associated with the goals

relating to water resources projects described in subsection (a) shall be displayed in any analysis of the costs and benefits of those projects."

#### SEC. 3. GIVING RECREATIONAL BENEFITS THE SAME STATUS AS OTHER BEACH RESTORATION BENEFITS.

Subsection (e)(2)(B) of the first section of the Act of August 13, 1946 (33 U.S.C. 426e(e)(2)(B)), is amended by striking clause (ii) and inserting the following:

"(ii) **CONSIDERATIONS; PROCEDURES.**—In making recommendations relating to shore protection projects under clause (i), the Secretary shall—

"(I) consider the economic and ecological benefits of the shore protection projects; and

"(II) develop and implement procedures for the determination of national economic benefits that treat benefits provided for recreation, hurricane and storm damage reduction, and environmental restoration equally."

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1783. Mr. DEWINE (for himself and Ms. LANDRIEU) proposed an amendment to the bill H.R. 2765, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.

SA 1784. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 2765, supra; which was ordered to lie on the table.

SA 1785. Mr. GRAHAM, of South Carolina (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill S. 1584, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1786. Mr. PRYOR (for himself, Mr. BREAUX, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 1783 proposed by Mr. DEWINE (for himself and Ms. LANDRIEU) to the bill H.R. 2765, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 1783. Mr. DEWINE (for himself and Ms. LANDRIEU) proposed an amendment to the bill H.R. 2765, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes; as follows:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia and related agencies for the fiscal year ending September 30, 2004, and for other purposes, namely:

#### TITLE I—FEDERAL FUNDS

##### FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated

account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, \$17,000,000, to remain available until expended: *Provided*, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to \$2,500 each year at eligible private institutions of higher education: *Provided further*, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: *Provided further*, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: *Provided further*, That the account shall be under the control of the District of Columbia Chief Financial Officer who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: *Provided further*, That the Resident Tuition Support Program Office and the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: *Provided further*, That not more than 7 percent of the total amount appropriated for this program may be used for administrative expenses.

**FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA**

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, \$15,000,000, to remain available until expended, to reimburse the District of Columbia for the costs of public safety expenses related to security events in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: *Provided*, That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted by the President to Congress and such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

**FEDERAL PAYMENT FOR HOSPITAL BIOTERRORISM PREPAREDNESS IN THE DISTRICT OF COLUMBIA**

For a Federal payment to support hospital bioterrorism preparedness in the District of Columbia, \$10,000,000, of which \$7,000,000 shall be for the Children's National Medical Center in the District of Columbia for the expansion of quarantine facilities and the establishment of a decontamination facility, and \$3,000,000 shall be for the Washington Hospital Center for construction of containment facilities.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS**

For salaries and expenses for the District of Columbia Courts, \$172,104,000, to be allocated as follows: for the District of Columbia Court of Appeals, \$8,775,000, of which not to exceed \$1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, \$83,387,000, of which not to exceed \$1,500 is for official reception and representation expenses; for the District

of Columbia Court System, \$40,006,000, of which not to exceed \$1,500 is for official reception and representation expenses; and \$39,936,000 for capital improvements for District of Columbia courthouse facilities: *Provided*, That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: *Provided further*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: *Provided further*, That funds made available for capital improvements may remain available until September 30, 2005: *Provided further*, That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than \$1,000,000 of the funds provided under this heading among the items and entities funded under such heading.

**DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS**

For payments authorized under section 11-2604 and section 11-2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in adoption proceedings under Chapter 3 of title 16, D.C. Code, payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code or pursuant to a contract with a non-profit organization to provide guardian ad litem representation, training, technical assistance and such other services as are necessary to improve the quality of guardian ad litem representation, and payments for counsel authorized under section 21-2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), \$32,000,000, to remain available until expended: *Provided*, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: *Provided further*, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

**FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA**

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia, and the Public Defender Service for the District of Columbia as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, \$173,396,000, of which not to exceed \$25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002, of which not to exceed \$2,000 is for official receptions and representation expenses related to Community and Pretrial Services Agency Programs; of which \$110,775,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which \$25,210,000 shall be transferred to the Public Defender Service for the District of Columbia to include expenses relating to the provision of legal representation and including related services provided to the local courts and Criminal Justice Act bar; and of which \$37,411,000 shall be available to the Pretrial Services Agency: *Provided*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further*, That notwithstanding chapter 33 of title 40, United States Code, the Director shall acquire by purchase, lease, condemnation, or donation, and renovate as necessary, Building Number 17, 1900 Massachusetts Avenue, Southeast, Washington, District of Columbia to house or supervise offenders and defendants, with funds made available for this purpose in Public Law 107-96: *Provided further*, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: *Provided further*, That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: *Provided further*, That the Director is authorized to accept appropriation reimbursements from the District of Columbia Government for space and services provided on a cost reimbursable basis: *Provided further*, That these reimbursements are subject to approved apportionments from the Office of Management and Budget.

**FEDERAL PAYMENT TO THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA**

For a Federal payment to the Chief Financial Officer of the District of Columbia, \$20,000,000: *Provided*, That these funds shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: *Provided further*, That each entity that receives funding under this heading shall submit to the Committees on Appropriations of the House of Representatives and Senate a report due March 15, 2004, on the activities carried out with such funds.

**FEDERAL PAYMENT FOR TRANSPORTATION ASSISTANCE**

For a Federal payment to the District of Columbia Department of Transportation,



\$3,500,000, of which \$500,000 shall be allocated to implement a downtown circulator transit system, and of which \$3,000,000 shall be to offset a portion of the District of Columbia's allocated operating subsidy payment to the Washington Metropolitan Area Transit Authority.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

For a Federal payment to the District of Columbia Water and Sewer Authority, \$25,000,000, to remain available until expended, to continue implementing the Combined Sewer Overflow Long-Term Control Plan: *Provided*, That the District of Columbia Water and Sewer Authority provides a 100 percent match for the fiscal year 2004 Federal contribution.

**FEDERAL PAYMENT FOR THE ANACOSTIA WATERFRONT INITIATIVE IN THE DISTRICT OF COLUMBIA**

For a Federal payment to the District of Columbia Department of Transportation, for implementation of the Anacostia Waterfront Initiative, \$6,000,000, to remain available until expended.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR CAPITAL DEVELOPMENT**

For a Federal payment to the District of Columbia for capital development, \$5,000,000, to remain available until expended, for the Unified Communications Center.

**FEDERAL PAYMENT TO CHILDREN'S NATIONAL MEDICAL CENTER**

For a Federal payment to Children's National Medical Center, \$10,000,000, for construction costs associated with the expansion of a neo-natal care unit, pediatric intensive care unit, and cardiac intensive care unit.

**FEDERAL PAYMENT TO ST. COLETTA OF GREATER WASHINGTON EXPANSION PROJECT**

For a Federal payment to St. Coletta of Greater Washington, Inc., \$2,000,000, for costs associated with establishment of a day program and comprehensive case management services for mentally retarded and multiple-handicapped adolescents and adults in the District of Columbia, including property acquisition and construction.

**FEDERAL PAYMENT FOR FOSTER CARE IMPROVEMENTS IN THE DISTRICT OF COLUMBIA**

For a Federal payment to the District of Columbia for foster care improvements, \$14,000,000: *Provided*, That \$9,000,000 shall be for the Child and Family Services Agency, of which \$2,000,000 shall be to establish an early intervention unit to provide intensive and immediate services for foster children; of which \$1,000,000 shall be to establish an emergency support fund to purchase items necessary to allow children to remain in the care of an approved family member; of which \$3,000,000 shall be for a loan repayment program for social workers who meet certain agency-established requirements; of which \$3,000,000 shall be to upgrade the agency's computer database to a web-based technology and to provide computer technology for social workers: *Provided further*, That \$3,900,000 shall be for the Department of Mental Health to provide all court-ordered mental health assessments and treatments for children under the supervision of the Child and Family Services Agency: *Provided further*, That the Director of the Department of Mental Health shall ensure that court-ordered mental health assessments are completed within 15 days of the court order and that all assessments be provided to the Court within 5 days of completion of the assessment: *Provided further*, That the Director shall initiate court-ordered mental health services within 10 days of the issuance of an order: *Provided further*, That \$1,100,000 shall

be for the Washington Metropolitan Council of Governments to develop a program to provide respite care for and recruitment of foster parents: *Provided further*, That the Mayor shall submit a detailed expenditure plan for the use of funds provided under this heading within 15 days of enactment of this legislation to the Committees on Appropriations of the House of Representatives and Senate: *Provided further*, That the funds provided under this heading shall not be made available until 30 calendar days after the submission to Congress of a spending plan: *Provided further*, That no part of this appropriation may be used for contractual community-based services: *Provided further*, That the Comptroller General shall prepare and submit to the Committees on Appropriations of the House and Senate an accounting of all obligations and expenditures of the funds provided under this heading: *Provided further*, That the Comptroller General shall initiate management reviews of the Child and Family Services Agency and the Department of Mental Health and submit a report to the Committees on Appropriations of the House and Senate no later than 6 months after enactment of this Act.

**FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT**

For a Federal payment for a School Improvement Program in the District of Columbia, \$40,000,000, to be allocated as follows: for the State Education Office, \$13,000,000 to improve public school education in the District of Columbia; for the State Education Office, \$13,000,000 to expand quality charter schools in the District of Columbia; for the Secretary of the Department of Education, \$13,000,000 to administer opportunity scholarships for students in the District of Columbia in accordance with title II of this Act: *Provided further*, That \$1,000,000 shall be for administrative expenses necessary for carrying out title II of this Act: *Provided*, That the State Education Office shall submit a plan for the use of funds provided under this heading for public school education to the Committees on Appropriations of the House of Representatives and Senate within 30 days of enactment of this Act: *Provided further*, That the funds provided under this heading for public school education shall not be made available until 30 calendar days after the submission of a spending plan by the State Education Office to the Committees on Appropriations of the House of Representatives and Senate.

**TITLE II—DC STUDENT OPPORTUNITY SCHOLARSHIP ACT OF 2003**

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "DC Student Opportunity Scholarship Act of 2003".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their child.

(2) For many parents in the District of Columbia, available educational alternatives to the public schools are inadequate, and more educational options are needed. In particular, funds are needed to assist low-income parents to exercise choice among enhanced public opportunities and private educational environments, whether religious or nonreligious.

(3) In the most recent mathematics assessment on the National Assessment of Educational Progress (NAEP), administered in 2000, a lower percentage of 4th-grade students in the District of Columbia demonstrated proficiency than was the case for any State. Seventy-six percent of the District of Columbia fourth-graders scored at the "below basic" level and of the 8th-grade

students in the District of Columbia, only 6 percent of the students tested at the proficient or advanced levels, and 77 percent were below basic. In the most recent NAEP reading assessment, in 1998, only 10 percent of the District of Columbia fourth-graders could read proficiently, while 72 percent were below basic. At the 8th-grade level, 12 percent were proficient or advanced and 56 percent were below basic.

(4) A program enacted for the valid secular purpose of providing educational assistance to low-income children in a demonstrably failing public school system is constitutional under *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), if it is neutral with respect to religion and provides assistance to a broad class of citizens who direct government aid to religious and secular schools solely as a result of their genuine and independent private choices.

(5) The Mayor of the District of Columbia and the President of the District of Columbia Board of Education support this Act.

(6) This Act provides additional money for the District of Columbia public schools and therefore money for vouchers is not being taken out of money that would otherwise go to the District of Columbia public schools.

(7) This Act creates a 5-year pilot program tailored to the current needs and particular circumstances of low-income children in District of Columbia schools. This Act does not establish parameters or requirements for other school choice programs.

**SEC. 3. PURPOSE.**

The purpose of this Act is to provide low-income parents residing in the District of Columbia, particularly parents of students who attend elementary schools or secondary schools identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316), with expanded opportunities for enrolling their children in higher-performing schools in the District of Columbia.

**SEC. 4. GENERAL AUTHORITY.**

(a) **AUTHORITY.**—From funds appropriated to carry out this Act, the Secretary shall award grants on a competitive basis to eligible entities with approved applications under section 5 to carry out activities to provide eligible students with expanded school choice opportunities. The Secretary may award a single grant or multiple grants, depending on the quality of applications submitted and the priorities of this Act.

(b) **DURATION OF GRANTS.**—The Secretary may make grants under this section for a period of not more than 5 years.

(c) **MEMORANDUM OF UNDERSTANDING.**—The Secretary and the Mayor of the District of Columbia shall enter into a memorandum of understanding regarding the design of, selection of eligible entities to receive grants under, and implementation of, a program assisted under this Act.

**SEC. 5. APPLICATIONS.**

(a) **IN GENERAL.**—In order to receive a grant under this Act, an eligible entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) **CONTENTS.**—The Secretary may not approve the request of an eligible entity for a grant under this Act unless the entity's application includes—

(1) a detailed description of—

(A) how the entity will address the priorities described in section 6;

(B) how the entity will ensure that if more eligible students seek admission in the program than the program can accommodate, eligible students are selected for admission through a random selection process which



gives weight to the priorities described in section 6;

(C) how the entity will ensure that if more participating eligible students seek admission to a participating school than the school can accommodate, participating eligible students are selected for admission through a random selection process;

(D) how the entity will notify parents of eligible students of the expanded choice opportunities and how the entity will ensure that parents receive sufficient information about their options to allow the parents to make informed decisions;

(E) the activities that the entity will carry out to provide parents of eligible students with expanded choice opportunities through the awarding of scholarships under section 7(a);

(F) how the entity will determine the amount that will be provided to parents for the tuition, fees, and transportation expenses, if any;

(G) how the entity will seek out private elementary schools and secondary schools in the District of Columbia to participate in the program, and will ensure that participating schools will meet the applicable requirements of this Act (including those related to the admission of participating eligible students) and provide the information needed for the entity to meet the reporting requirements of this Act;

(H) how the entity will ensure that participating schools are financially responsible and will use the funds received under this title effectively;

(I) how the entity will address the renewal of scholarships to participating eligible students, including continued eligibility; and

(J) how the entity will ensure that a majority of its voting board members or governing organization are residents of the District of Columbia; and

(2) an assurance that the entity will comply with all requests regarding any evaluation carried out under section 9.

#### SEC. 6. PRIORITIES.

In awarding grants under this Act, the Secretary shall give priority to applications from eligible entities who will most effectively—

(1) give priority to eligible students who, in the school year preceding the school year for which the eligible student is seeking a scholarship, attended an elementary school or secondary school identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316);

(2) target resources to students and families that lack the financial resources to take advantage of available educational options; and

(3) provide students and families with the widest range of educational options.

#### SEC. 7. USE OF FUNDS.

##### (a) SCHOLARSHIPS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a grantee shall use the grant funds to provide eligible students with scholarships to pay the tuition, fees, and transportation expenses, if any, to enable them to attend the District of Columbia private elementary school or secondary school of their choice. Each grantee shall ensure that the amount of any tuition or fees charged by a school participating in the grantee's program under this Act to an eligible student participating in the program does not exceed the amount of tuition or fees that the school customarily charges to students who do not participate in the program.

(2) PAYMENTS TO PARENTS.—A grantee shall make scholarship payments under the program under this Act to the parent of the eli-

gible student participating in the program, in a manner which ensures that such payments will be used for the payment of tuition, fees, and transportation expenses (if any), in accordance with this Act.

##### (3) AMOUNT OF ASSISTANCE.—

(A) VARYING AMOUNTS PERMITTED.—Subject to the other requirements of this section, a grantee may award scholarships in larger amounts to those eligible students with the greatest need.

(B) ANNUAL LIMIT ON AMOUNT.—The amount of assistance provided to any eligible student by a grantee under a program under this Act may not exceed \$7,500 for any academic year.

(4) CONTINUATION OF SCHOLARSHIPS.—Notwithstanding section 12(3)(B), an eligible entity receiving a grant under this Act may award a scholarship, for the second or any succeeding year of an eligible student's participation in a program under this Act, to a student who comes from a household whose income does not exceed 200 percent of the poverty line.

(b) ADMINISTRATIVE EXPENSES.—A grantee may use not more than 3 percent of the amount provided under the grant each year for the administrative expenses of carrying out its program under this Act during the year, including—

(1) determining the eligibility of students to participate;

(2) providing information about the program and the schools involved to parents of eligible students;

(3) selecting students to receive scholarships;

(4) determining the amount of scholarships and issuing the scholarships to eligible students;

(5) compiling and maintaining financial and programmatic records; and

(6) providing funds to assist parents in meeting expenses that might otherwise preclude the participation of their child in the program.

#### SEC. 8. NONDISCRIMINATION.

(a) IN GENERAL.—An eligible entity or a school participating in any program under this Act shall not discriminate against program participants or applicants on the basis of race, color, national origin, religion, or sex.

(b) APPLICABILITY AND SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—

(1) APPLICABILITY.—Notwithstanding any other provision of law, the prohibition of sex discrimination in subsection (a) shall not apply to a participating school that is operated by, supervised by, controlled by, or connected to a religious organization to the extent that the application of subsection (a) is inconsistent with the religious tenets of the school.

(2) SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—Notwithstanding subsection (a) or any other provision of law, a parent may choose and a school may offer a single sex school, class, or activity.

(c) CHILDREN WITH DISABILITIES.—Nothing in this Act may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act.

##### (d) RELIGIOUSLY AFFILIATED SCHOOLS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a school participating in any program under this Act that is operated by, supervised by, controlled by, or connected to, a religious organization may exercise its discretion in matters of employment consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1 et seq.), including the exemptions in such title.

(2) MAINTENANCE OF PURPOSE.—Notwithstanding any other provision of law, funds made available under this Act to eligible students that are received by a participating

school, as a result of their parents' choice, shall not, consistent with the first amendment of the United States Constitution, necessitate any change in the participating school's teaching mission, require any participating school to remove religious art, icons, scriptures, or other symbols, or preclude any participating school from retaining religious terms in its name, selecting its board members on a religious basis, or including religious references in its mission statements and other chartering or governing documents.

(e) RULE OF CONSTRUCTION.—A scholarship (or any other form of support provided to parents of eligible students) under this Act shall be considered assistance to the student and shall not be considered assistance to the school that enrolls the eligible student. The amount of any scholarship (or other form of support provided to parents of an eligible student) under this Act shall not be treated as income of the parents for purposes of Federal tax laws or for determining eligibility for any other Federal program.

#### SEC. 9. EVALUATIONS.

##### (a) IN GENERAL.—

(1) DUTIES OF SECRETARY.—The Secretary, directly or by grant, contract, or cooperative agreement, shall—

(A) conduct an evaluation using the strongest possible research design for determining the effectiveness of the programs funded under this Act that addresses the issues described in paragraph (2); and

(B) disseminate information on the impact of the programs in increasing the student academic achievement of participating students, as well as other appropriate measures of student success, and on the impact of the programs on students and schools in the District of Columbia.

(2) ISSUES TO BE EVALUATED.—The issues described in this paragraph include the following:

(A) A comparison of the academic achievement of students who participate in the programs funded under this Act with the academic achievement of students of similar backgrounds who do not participate in such programs, including a consideration of school factors that may contribute to any differences in their academic achievement.

(B) The success of the programs in expanding choice options for parents.

(C) The reasons parents choose for their children to participate in the programs.

(D) A comparison of the retention rates, dropout rates, and (if appropriate) graduation and college admission rates of students who participate in the programs funded under this Act with the retention rates, dropout rates, and (if appropriate) graduation and college admission rates of students of similar backgrounds who do not participate in such programs.

(E) The impact of the program on students and public elementary schools and secondary schools in the District of Columbia.

(F) A comparison of the safety of the schools attended by students who participate in the programs and the schools attended by students who do not participate in the programs.

(G) Such other issues as the Secretary considers appropriate for inclusion in the evaluation.

(b) REPORTS.—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Governmental Affairs of the Senate—

(1) annual interim reports not later than December 1 of each year for which a grant is

made under this Act on the progress and preliminary results of the evaluation of the programs funded under this Act; and

(2) a final report not later than 1 year after the final year for which a grant is made under this Act on the results of the evaluation of the programs funded under this Act.

(c) **PUBLIC AVAILABILITY.**—All reports and underlying data gathered pursuant to this section shall be made available to the public upon request, in a timely manner following submission of the applicable report under subsection (b), except that personally identifiable information shall not be disclosed or made available to the public.

(d) **LIMIT ON AMOUNT EXPENDED.**—The amount expended by the Secretary to carry out this section for any fiscal year may not exceed 3 percent of the total amount appropriated to carry out this Act for the year.

#### SEC. 10. REPORTING REQUIREMENTS.

(a) **ACTIVITIES REPORTS.**—Each grantee receiving funds under this Act during a year shall submit a report to the Secretary not later than July 30 of the following year regarding the activities carried out with the funds during the preceding year.

(b) **ACHIEVEMENT REPORTS.**—

(1) **IN GENERAL.**—In addition to the reports required under subsection (a), each grantee shall, not later than September 1 of the year during which the second academic year of the grantee's program is completed and each of the next 2 years thereafter, submit a report to the Secretary regarding the data collected in the previous 2 academic years concerning—

(A) the academic achievement of students participating in the program;

(B) the graduation and college admission rates of students who participate in the program, where appropriate; and

(C) parental satisfaction with the program.

(2) **PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.**—No report under this subsection may contain any personally identifiable information.

(c) **REPORTS TO PARENT.**—

(1) **IN GENERAL.**—Each grantee shall ensure that each school participating in the grantee's program under this Act during a year reports at least once during the year to the parents of each of the school's students who are participating in the program on—

(A) the student's academic achievement, as measured by a comparison with the aggregate academic achievement of other participating students at the student's school in the same grade or level, as appropriate, and the aggregate academic achievement of the student's peers at the student's school in the same grade or level, as appropriate; and

(B) the safety of the school, including the incidence of school violence, student suspensions, and student expulsions.

(2) **PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.**—No report under this subsection may contain any personally identifiable information, except as to the student who is the subject of the report to that student's parent.

(d) **REPORT TO CONGRESS.**—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Governmental Affairs of the Senate an annual report on the findings of the reports submitted under subsections (a) and (b).

#### SEC. 11. OTHER REQUIREMENTS FOR PARTICIPATING SCHOOLS.

(a) **REQUESTS FOR DATA AND INFORMATION.**—Each school participating in a program funded under this Act shall comply with all requests for data and information

regarding evaluations conducted under section 9(a).

(b) **RULES OF CONDUCT AND OTHER SCHOOL POLICIES.**—A participating school may require eligible students to abide by any rules of conduct and other requirements applicable to all other students at the school.

(c) **ASSESSMENTS.**—Each participating school shall—

(1) ensure that participating eligible students receive comparable academic assessments in the same grade levels as those provided to District of Columbia public school students, and ensure, to the maximum extent possible, that the assessment results are capable of being compared to determine the relative achievement levels between participating eligible students and District of Columbia public school students in the same grades; and

(2) ensure academic assessment results containing any personally identifiable information shall be disclosed only to the parents of the student taking the assessment.

#### SEC. 12. DEFINITIONS.

As used in this Act:

(1) **ELEMENTARY SCHOOL.**—The term "elementary school" means an institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under District of Columbia law.

(2) **ELIGIBLE ENTITY.**—The term "eligible entity" means any of the following:

(A) An educational entity of the District of Columbia Government.

(B) A nonprofit organization.

(C) A consortium of nonprofit organizations.

(3) **ELIGIBLE STUDENT.**—The term "eligible student" means a student who—

(A) is a resident of the District of Columbia; and

(B) comes from a household whose income does not exceed 185 percent of the poverty line.

(4) **PARENT.**—The term "parent" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(5) **POVERTY LINE.**—The term "poverty line" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) **SECONDARY SCHOOL.**—The term "secondary school" means an institutional day or residential school, including a public secondary charter school, as determined under District of Columbia law, except that the term does not include any education beyond grade 12.

(7) **SECRETARY.**—The term "Secretary" means the Secretary of Education.

#### SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

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

#### TITLE III—DISTRICT OF COLUMBIA FUNDS

##### OPERATING EXPENSES

##### DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: *Provided*, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act and provisions of this Act (D.C. Official Code, sec. 1-204.50a), the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2004 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or \$6,326,138,000 (of which

\$3,832,734,000 shall be from local funds (of which \$96,248,000 shall be funds identified in the fiscal year 2002 comprehensive annual financial report as the District of Columbia's fund balance funds), \$1,568,734,000 shall be from Federal grant funds, \$13,766,000 shall be from private funds, \$910,904,000 shall be from other funds) and \$109,500,000 from funds previously appropriated in this Act as Federal payments: *Provided further*, That an amount of \$263,759,000 shall be for Intra-District funds: *Provided further*, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: *Provided further*, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act: *Provided further*, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2004, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

##### GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$284,415,000 (including \$206,825,000 from local funds, \$57,440,000 from Federal funds, and \$20,150,000 from other funds), in addition, \$20,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Chief Financial Officer of the District of Columbia", and \$1,100,000 from funds previously appropriated in this Act under the heading "Federal Payment for Foster Care Improvement in the District of Columbia": *Provided*, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, \$2,500 for the City Administrator, and \$2,500 for the Office of the Chief Financial Officer shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That an amount not to exceed \$25,000 of the funds in the Anti-fraud Fund established pursuant to section 820 of the District of Columbia Procurement Practices Act of 1985, effective May 8, 1998 (D.C. Law 12-104; D.C. Official Code, sec. 2-308.20), is hereby made available, to remain available until expended, for the use of the Office of the Corporation Counsel of the District of Columbia in accordance with the laws establishing this fund.

##### ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$276,647,000 (including \$53,336,000 from local

funds, \$91,077,000 from Federal funds, \$125,000 from private funds, and \$132,109,000 from other funds), of which \$15,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11-134; D.C. Official Code, sec. 2-1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12-26; D.C. Official Code, sec. 2-1215.15 et seq.): *Provided*, That such funds are available for acquiring services provided by the General Services Administration: *Provided further*, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia.

#### PUBLIC SAFETY AND JUSTICE

Public safety and justice, \$745,958,000 (including \$716,715,000 from local funds, \$10,290,000 from Federal funds, \$9,000 from private funds, and \$18,944,000 from other funds): *Provided*, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

#### PUBLIC EDUCATION SYSTEM

##### (INCLUDING TRANSFERS OF FUNDS)

Public education system, including the development of national defense education programs, \$1,157,841,000 (including \$962,941,000 from local funds, \$156,708,000 from Federal grant funds, \$4,302,000 from private funds, and not to exceed \$6,816,000, to remain available until expended, from the Medicaid and Special Education Reform Fund), in addition, \$17,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support" and \$26,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia", to be allocated as follows:

(1) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—\$870,135,000 (including \$738,444,000 from local funds, \$114,749,000 from Federal funds, \$3,599,000 from private funds, and \$6,527,000 from other funds shall be available for District of Columbia Public Schools: *Provided*, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 2004, unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia that are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of

law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2004, an amount equal to 10 percent of the total amount provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2005: *Provided further*, That not to exceed \$2,500 for the Superintendent of Schools shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia Public Schools shall submit to the Board of Education by January 1 and July 1 of each year a Schedule A showing all the current funded positions of the District of Columbia Public Schools, their compensation levels, and indicating whether the positions are encumbered: *Provided further*, That the Board of Education shall approve or disapprove each Schedule A within 30 days of its submission and provide the Council of the District of Columbia a copy of the Schedule A upon its approval.

(2) STATE EDUCATION OFFICE.—\$38,752,000 (including \$9,959,000 from local funds, \$28,617,000 from Federal grant funds, and \$176,000 from other funds), in addition, \$17,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support" and \$26,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" shall be available for the State Education Office: *Provided*, That of the amounts provided to the State Education Office, \$500,000 from local funds shall remain available until June 30, 2005 for an audit of the student enrollment of each District of Columbia Public School and of each District of Columbia public charter school.

(3) DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOLS.—\$137,531,000 from local funds shall be available for District of Columbia public charter schools: *Provided*, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year: *Provided further*, That if the entirety of this allocation has not been provided as payments to any public charter school currently in operation through the per pupil funding formula, the funds shall be available as follows: (1) the first \$3,000,000 shall be deposited in the Credit Enhancement Revolving Fund established pursuant to section 603(e) of the Student Loan Marketing Association Reorganization Act of 1996, approved September 20, 1996 (Public Law 104-208; 110 Stat. 3009; 20 U.S.C. 1155(e)); and (2) the balance shall be for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995, approved November 19, 1997 (Public Law 105-100, section 172; D.C. Official Code, section 38-1804.03(b)(2)): *Provided further*, That of the amounts made available to District of Columbia public charter schools, \$25,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(6) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38-1804.03(b)(6)): *Provided further*, That \$660,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2004, an amount equal to 25 percent of the total amount provided for payments to public charter schools in the proposed budget

of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2005.

(4) UNIVERSITY OF THE DISTRICT OF COLUMBIA.—\$80,660,000 (including \$48,656,000 from local funds, \$11,867,000 from Federal funds, \$703,000 from private funds, and \$19,434,000 from other funds) shall be available for the University of the District of Columbia: *Provided*, That this appropriation shall not be available to subsidize the education of non-residents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2004, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2004, an amount equal to 10 percent of the total amount provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2005: *Provided further*, That not to exceed \$2,500 for the President of the University of the District of Columbia shall be available from this appropriation for official purposes.

(5) DISTRICT OF COLUMBIA PUBLIC LIBRARIES.—\$28,287,000 (including \$26,750,000 from local funds, \$1,000,000 from Federal funds, and \$537,000 from other funds) shall be available for the District of Columbia Public Libraries: *Provided*, That not to exceed \$2,000 for the Public Librarian shall be available from this appropriation for official purposes.

(6) COMMISSION ON THE ARTS AND HUMANITIES.—\$2,476,000 (including \$1,601,000 from local funds, \$475,000 from Federal funds, and \$400,000 from other funds) shall be available for the Commission on the Arts and Humanities.

#### HUMAN SUPPORT SERVICES

##### (INCLUDING TRANSFER OF FUNDS)

Human support services, \$2,360,067,000 (including \$1,030,223,000 from local funds, \$1,247,945,000 from Federal funds, \$9,330,000 from private funds, and \$24,330,000 from other funds, of which \$48,239,000, to remain available until expended, shall be available for deposit in the Medicaid and Special Education Reform Fund established pursuant to the Medicaid and Special Education Reform Fund Establishment Act of 2002, effective October 1, 2002 (D.C. Law 14-190; D.C. Official Code 4-204.51 et seq.)), in addition, \$12,900,000 from funds previously appropriated in this Act under the heading "Federal Payment to Foster Care Improvement in the District of Columbia": *Provided*, That the funds deposited in the Medicaid and Special Education Reform Fund are allocated as follows: no more than \$6,816,000 for District of Columbia Public Schools, no more than \$18,744,000 for Child and Family Services, no more than \$7,795,000 for the Department of Human Services, and no more than \$21,700,000 for the Department of Mental Health: *Provided further*, That \$27,959,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That \$7,500,000 of this appropriation,

to remain available until expended, shall be deposited in the Addiction Recovery Fund, established pursuant to section 5 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13-146; D.C. Official Code, sec. 7-3004) and used exclusively for the purpose of the Drug Treatment Choice Program established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13-146; D.C. Official Code, sec. 7-3003): *Provided further*, That no less than \$2,000,000 of this appropriation shall be available exclusively for the purpose of funding the pilot substance abuse program for youth ages 14 through 21 years established pursuant to section 4212 of the Pilot Substance Abuse Program for Youth Act of 2001 (D.C. Law 14-28; D.C. Official Code, sec. 7-3101): *Provided further*, That \$4,500,000 of this appropriation, to remain available until expended, shall be deposited in the Interim Disability Assistance Fund established pursuant to section 201 of the District of Columbia Public Assistance Act of 1982 (D.C. Law 4-101; D.C. Official Code, sec. 4-202.01), to be used exclusively for the Interim Disability Assistance program and the purposes for that program set forth in section 407 of the District of Columbia Public Assistance Act of 1982 (D.C. Law 13-252; D.C. Official Code, sec. 4-204.07): *Provided further*, That no less than \$640,531 of this appropriation shall be available exclusively for the purpose of funding the Burial Assistance Program established by section 1802 of the Burial Assistance Program Reestablishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; D.C. Official Code, section 4-1001).

#### PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, \$327,046,000 (including \$308,028,000 from local funds, \$5,274,000 from Federal funds, and \$13,744,000 from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

#### EMERGENCY AND CONTINGENCY RESERVE FUNDS

For the emergency reserve fund and the contingency reserve fund under section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-204.50a), such amounts from local funds as are necessary to meet the balance requirements for such funds under such section.

#### REPAYMENT OF LOANS AND INTEREST

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (D.C. Official Code, secs. 1-204.62, 1-204.75, and 1-204.90), \$311,504,000 from local funds: *Provided*, That for equipment leases, the Mayor may finance \$14,300,000 of equipment cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years.

#### PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, \$3,000,000 from local funds.

#### CERTIFICATES OF PARTICIPATION

For principal and interest payments on the District's Certificates of Participation, issued to finance the ground lease underlying the building located at One Judiciary Square, \$4,911,000 from local funds.

#### SETTLEMENTS AND JUDGMENTS

For making refunds and for the payment of legal settlements or judgments that have

been entered against the District of Columbia government, \$22,522,000: *Provided*, That this appropriation shall not be construed as modifying or affecting the provisions of section 103 of this Act.

#### WILSON BUILDING

For expenses associated with the John A. Wilson Building, \$3,704,000 from local funds.

#### WORKFORCE INVESTMENTS

For workforce investments, \$22,308,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable.

#### NON-DEPARTMENTAL AGENCY

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, \$19,639,000 (including \$11,455,000 from local funds, and \$8,184,000 from other funds) to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act: *Provided*, That \$5,000,000 in local funds shall be available to meet contractual obligations, and \$11,455,000 in local funds shall be for anticipated costs associated with the No Child Left Behind Act.

#### EMERGENCY PLANNING AND SECURITY COSTS

From funds previously appropriated in this Act under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia", \$15,000,000.

#### TRANSPORTATION ASSISTANCE

From funds previously appropriated in this Act under the heading "Federal Payment for Transportation Assistance", \$3,500,000.

#### PAY-AS-YOU-GO CAPITAL

For Pay-As-You-Go Capital funds in lieu of capital financing, \$11,267,000, to be transferred to the Capital Fund, subject to the Criteria for Spending Pay-as-You-Go Funding Amendment Act of 2003, approved by the Council of the District of Columbia on 1st reading, May 6, 2003 (Title 25 of Bill 15-218). Pursuant to this Act, there are authorized to be transferred from Pay-As-You-Go Capital funds to other headings of this Act, as necessary to carry out the purposes of this Act.

#### TAX INCREMENT FINANCING PROGRAM

For a Tax Increment Financing Program, \$1,940,000 from local funds.

#### CASH RESERVE

For the cumulative cash reserve established pursuant to section 202(j)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (Public Law 107-96; D.C. Official Code, section 47-392.02(j)(2)), \$50,000,000 from local funds.

#### MEDICAID DISALLOWANCE

For making refunds associated with disallowed Medicaid funding an amount not to exceed \$57,000,000 in local funds to remain available until expended: *Provided*, That funds are derived from a transfer from the funds identified in the fiscal year 2002 comprehensive annual financial report as the District of Columbia's Grants Disallowance balance.

#### ENTERPRISE AND OTHER FUNDS

##### WATER AND SEWER AUTHORITY

For operation of the Water and Sewer Authority, \$259,095,000 from other funds, of which \$18,692,000 shall be apportioned for repayment of loans and interest incurred for capital improvement projects (\$18,094,000 and payable to the District's debt service fund).

For construction projects, \$199,807,000, to be distributed as follows: \$99,449,000 for the Blue Plains Wastewater Treatment Plant, \$16,739,000 for the sewer program, \$42,047,000 for the combined sewer program, \$42,047,000

for the Combined Sewer Overflow Long-Term Control Plan, \$5,993,000 for the stormwater program, \$24,431,000 for the water program, and \$11,148,000 for the capital equipment program, in addition, \$25,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to the District of Columbia Water and Sewer Authority".

##### WASHINGTON AQUEDUCT

For operation of the Washington Aqueduct, \$55,553,000 from other funds.

##### STORMWATER PERMIT COMPLIANCE ENTERPRISE FUND

For operation of the Stormwater Permit Compliance Enterprise Fund, \$3,501,000 from other funds.

##### LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3-172; D.C. Official Code, sec. 3-1301 et seq. and sec. 22-1716 et seq.), \$242,755,000: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

##### SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, \$13,979,000 from local funds.

##### DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established pursuant to section 121 of the District of Columbia Retirement Reform Act of 1979 (D.C. Official Code, sec. 1-711), \$13,895,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

##### WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$69,742,000 from other funds.

##### NATIONAL CAPITAL REVITALIZATION CORPORATION

For the National Capital Revitalization Corporation, \$7,849,000 from other funds.

##### CAPITAL OUTLAY

##### (INCLUDING RESCISSIONS)

For construction projects, an increase of \$1,004,796,000, of which \$601,708,000 shall be from local funds, \$46,014,000 from Highway Trust funds, \$38,311,000 from the Rights-of-way funds, \$218,880,000 from Federal funds, and a rescission of \$99,884,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of \$904,913,000, to remain available until expended, in addition, \$5,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Capital Development in the District of Columbia" and

\$6,000,000 from funds previously appropriated in this Act for the "Anacostia Waterfront Initiative": *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended.

#### TITLE IV—GENERAL PROVISIONS

SEC. 101. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 102. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 103. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Official Code, sec. 47-1812.11(c)(3)).

SEC. 104. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 105. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 106. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, and salary are not available for inspection by the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 107. None of the Federal funds provided in this Act may be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 108. (a) None of the Federal funds provided in this Act may be used to carry out lobbying activities on any matter.

(b) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any issue.

SEC. 109. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2004, or provided from any accounts in the Treasury of the United States derived by the collec-

tion of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of \$1,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center,

unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 30 days in advance of the reprogramming.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 30 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriation.

SEC. 110. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 111. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Official Code, sec. 1-601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-204.22(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 112. No later than 30 days after the end of the first quarter of fiscal year 2004, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2004 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2005. The officially revised estimates at midyear shall be used for the mid-year report.

SEC. 113. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6-85; D.C. Official Code, sec. 2-303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

SEC. 114. (a) In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by such Act.

(b) For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 115. (a)(1) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 2004 if—

(A) the Mayor approves the acceptance and use of the gift or donation (except as provided in paragraph (2) of this subsection); and

(B) the entity uses the gift or donation to carry out its authorized functions or duties.

(2) The Council of the District of Columbia and the District of Columbia courts may accept and use gifts without prior approval by the Mayor.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 116. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3-171; D.C. Official Code, sec. 1-123).

SEC. 117. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 118. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9-114; D.C. Official Code, sec. 32-701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 119. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the

District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(1) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(2) the Council within 15 calendar days after receipt of the report submitted under paragraph (1) has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 120. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2004 an inventory, as of September 30, 2003, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 121. No officer or employee of the District of Columbia government (including any independent agency of the District of Columbia, but excluding the Office of the Chief Technology Officer, the Office of the Chief Financial Officer of the District of Columbia, and the Metropolitan Police Department) may enter into an agreement in excess of \$2,500 for the procurement of goods or services on behalf of any entity of the District government until the officer or employee has conducted an analysis of how the procure-

ment of the goods and services involved under the applicable regulations and procedures of the District government would differ from the procurement of the goods and services involved under the Federal supply schedule and other applicable regulations and procedures of the General Services Administration, including an analysis of any differences in the costs to be incurred and the time required to obtain the goods or services.

SEC. 122. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2004 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2-302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 123. (a) None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 124. (a) None of the Federal funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 125. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted. The Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by the 10th day after the end of each quarter a summary list showing each report, the due date, and the date submitted to the Committees.

SEC. 126. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled

Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 127. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a "conscience clause" which provides exceptions for religious beliefs and moral convictions.

SEC. 128. (a) If the Superior Court of the District of Columbia or the District of Columbia Court of Appeals does not make a payment described in subsection (b) prior to the expiration of the 45-day period which begins on the date the Court receives a completed voucher for a claim for the payment, interest shall be assessed against the amount of the payment which would otherwise be made to take into account the period which begins on the day after the expiration of such 45-day period and which ends on the day the Court makes the payment.

(b) A payment described in this subsection is—

(1) a payment authorized under section 11-2604 and section 11-2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act);

(2) a payment for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code; or

(3) a payment for counsel authorized under section 21-2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986).

(c) The chief judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals shall establish standards and criteria for determining whether vouchers submitted for claims for payments described in subsection (b) are complete, and shall publish and make such standards and criteria available to attorneys who practice before such Courts.

(d) Nothing in this section shall be construed to require the assessment of interest against any claim (or portion of any claim) which is denied by the Court involved.

(e) This section shall apply with respect to claims received by the Superior Court of the District of Columbia or the District of Columbia Court of Appeals during fiscal year 2003 and any subsequent fiscal year.

SEC. 129. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing the following issues—

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway house escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;



(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 130. No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-204.42), for all agencies of the District of Columbia government for fiscal year 2004 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

SEC. 131. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93-030-(PA) and 93-031-(PA).

SEC. 132. None of the Federal funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 133. In addition to any other authority to pay claims and judgments, any department, agency, or instrumentality of the District government may pay the settlement or judgment of a claim or lawsuit in an amount less than \$10,000, in accordance with the Risk Management for Settlements and Judgments Amendment Act of 2000 (D.C. Law 13-172; D.C. Official Code, sec. 2-402).

SEC. 134. All funds from the Crime Victims Compensation Fund, established pursuant to section 16 of the Victims of Violent Crime Compensation Act of 1996 (D.C. Law 11-243; D.C. Official Code, sec. 4-514) ("Compensation Act"), that are designated for outreach activities pursuant to section 16(d)(2) of the Compensation Act shall be deposited in the Crime Victims Assistance Fund, established pursuant to section 16a of the Compensation Act, for the purpose of outreach activities, and shall remain available until expended.

SEC. 135. Notwithstanding any other law, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts in cases charging Driving Under the Influence and Driving While Impaired. The transferred funds shall remain available until expended and shall be used by the Office of the Corporation Counsel for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Control Act (D.C. Official Code, sec. 50-2201.05(b)(3)).

SEC. 136. From the local funds appropriated under this Act, any agency of the District government may transfer to the Office of Labor Relations and Collective Bargaining (OLRCB) such amounts as may be necessary to pay for representation by OLRCB in third-party cases, grievances, and dispute resolution, pursuant to an intra-District agreement with OLRCB. These amounts shall be

available for use by OLRCB to reimburse the cost of providing the representation.

SEC. 137. None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends any action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of \$4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

SEC. 138. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Act (IDEA) in the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia: *Provided*, That as part of the certification, the Chief Financial Officer of the District of Columbia require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification: *Provided further*, That the Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA: *Provided further*, That the Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

SEC. 139. Chapter 3 of title 16, District of Columbia Code, is amended by inserting at the end the following new section:

**"SEC. 16-316. APPOINTMENT AND COMPENSATION OF COUNSEL; GUARDIAN AD LITEM.**

"(a) When a petition for adoption has been filed and there has been no termination or relinquishment of parental rights with respect to the proposed adoptee or consent to the proposed adoption by a parent or guardian whose consent is required under D.C. Code section 16-304, the Court may appoint an attorney to represent such parent or guardian in the adoption proceeding if the individual is financially unable to obtain adequate representation.

"(b) The Court may appoint a guardian ad litem who is an attorney to represent the child in an adoption proceeding. The guardian ad litem shall in general be charged with the representation of the child's best interest.

"(c) An attorney appointed pursuant to subsection (a) or (b) of this section shall be compensated in accordance with D.C. Code section 16-2326.01, except that compensation in the adoption case shall be subject to the limitation set forth in D.C. Code section 16-2326.01(b)(2)."

The table of sections for chapter 3 of title 16, District of Columbia Code, is amended by inserting at the end the following new item:

"Sec. 16-316. Appointment and compensation of counsel; guardian ad litem."

SEC. 140. (a) The amount appropriated by this Act as Other Type Funds may be in-

creased no more than 25 percent to an account for unanticipated growth in revenue collections.

(b) CONDITIONS OF USE.—The District of Columbia may obligate or expend these amounts only in accordance with the following conditions:

(1) CERTIFICATION BY THE CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the District of Columbia shall certify that anticipated revenue collections support an increase in Other Type authority in the amount request.

(2) NOTICE REQUIREMENT.—The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and the Senate in writing 30 days in advance of any obligation or expenditure.

SEC. 141. (a) The amount appropriated by this Act may be increased by no more than \$15,000,000 from funds identified in the comprehensive annual financial report as the District's fund balance.

(b) CONDITIONS ON USE.—The District of Columbia may obligate or expend these amounts only in accordance with the following conditions:

(1) CERTIFICATION BY THE CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District of Columbia's long-term financial, fiscal, and economic vitality.

(2) PURPOSE.—The District of Columbia may only use these funds for the following expenditures:

- (A) Unanticipated one-time expenditures;
- (B) To address potential deficits;
- (C) Debt reduction;
- (D) Unanticipated program needs; or
- (E) To cover revenue shortfalls.

(3) LOCAL LAW.—The amounts shall be obligated or expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) RECEIVERSHIP.—The amounts may not be used to fund the agencies of the District of Columbia government under court-ordered receivership.

(5) NOTICE REQUIREMENT.—The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and the Senate in writing 30 days in advance of any obligation or expenditure.

(6) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section shall remain available until expended.

This Act may be cited as the "District of Columbia Appropriations Act, 2004".

**SA 1784.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 2765, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . NATIONAL DO-NOT-CALL REGISTRY.**

(a) FINDING.—Congress finds that the Federal Trade Commission was authorized under section 3(a)(3)(A) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6102(a)(3)(A)) to compile and implement a national do-not-call registry.

(b) RATIFICATION.—Congress hereby ratifies the do-not-call registry provision of the Telemarketing Sales Rule (16 CFR 310.4(b)(1)(iii)(B)), which was promulgated by



the Federal Trade Commission, effective March 31, 2003.

**SA 1785.** Mr. GRAHAM of South Carolina (for himself and Mr. HOLINGS) submitted an amendment intended to be proposed by him to the bill S. 1584, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

SEC. 116. Notwithstanding paragraph (2) of section 8163(c) of title 38, United States Code, the Secretary of Veterans Affairs may enter into an enhanced-use lease with the Medical University Hospital Authority, a public authority of the State of South Carolina, for approximately 0.48 acres of underutilized property at the Charleston Department of Veterans Affairs Medical Center, Charleston, South Carolina, at any time after 30 days after the date of the submittal of the notice required by paragraph (1) of that section with respect to such property. The Secretary is not required to submit a report on the lease as otherwise required by paragraph (4) of that section.

**SA 1786.** Mr. PRYOR (for himself, Mr. BREAUX, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 1783 proposed by Mr. DEWINE (for himself and Ms. LANDRIEU) to the bill H.R. 2765, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . NATIONAL DO-NOT-CALL REGISTRY.**

(a) FINDING.—Congress finds that the Federal Trade Commission was authorized under section 3(a)(3)(A) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6102(a)(3)(A)) to compile and implement a national do-not-call registry.

(b) RATIFICATION.—Congress hereby ratifies the do-not-call registry provision of the Telemarketing Sales Rule (16 CFR 310.4(b)(1)(iii)(B)), which was promulgated by the Federal Trade Commission, effective March 31, 2003.

**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, September 25, 2003, at 10 a.m. in room 562 of the Dirksen Senate Office Building to conduct a hearing on the reauthorization of the Head Start Program.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public

that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold a hearing entitled "Privacy & Piracy: The Paradox of Illegal File Sharing on Peer-to-Peer Networks and the Impact of Technology on the Entertainment Industry." At the September 30 hearing, the Subcommittee intends to take testimony regarding the music industry's initial salvo of copyright infringement lawsuits and its amnesty program; what steps the music industry is taking besides litigation to preserve its intellectual property in this digital age; whether those steps unduly infringe upon consumer's privacy rights; how peer-to-peer networks plan to move from a business model predicated upon stealing copyrighted works to a business model based upon trading licensed music, movies and software; how the illegal trading of copyrighted works has hurt the music industry; and how to inform and educate a whole generation of children and young adults that trading copyrighted music on peer-to-peer networks is illegal.

The hearing will take place on Tuesday, September 30, 2003, at 10 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Raymond V. Shepherd III, Staff Director of the Subcommittee, at 224-3721.

**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold a field hearing in Minnesota entitled "SARS: Is Minnesota Prepared?" This hearing will be the third hearing the Subcommittee has conducted on the issue of Severe Acute Respiratory Syndrome (SARS). At this field hearing, the Subcommittee will focus on what Minnesota has done to prepare for a possible outbreak of SARS this year and what still needs to be done; how the Federal Government can help; and how schools, businesses and communities should respond when someone they know develops a possible case of SARS.

The hearing will take place on Wednesday, October 8, 2003, at 10 a.m. at the University of Minnesota in Minneapolis, MN. For further information, please contact Joseph V. Kennedy of the Subcommittee staff at 224-4198.

**SUBCOMMITTEE ON WATER AND POWER**

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, October 30 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to examine S. 1097, a bill to authorize the Secretary of the Interior to implement the CalFed Bay-Delta Program.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Kellie Donnelly or Meghan Beal at 202-224-7556.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, September 24, 2003, at 9:45 a.m., in open session, to receive testimony on the report of the panel to review sexual misconduct allegations at the United States Air Force Academy.

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

**COMMITTEE ON FOREIGN RELATIONS**

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 24, 2003 at 9:30 a.m. to hold a hearing on Iraq: Next Steps.

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

**COMMITTEE ON FOREIGN RELATIONS**

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 24, 2003 at 2:30 p.m. to hold a hearing on Iraq: Next Steps.

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

**COMMITTEE ON GOVERNMENTAL AFFAIRS**

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, September 24, 2003, at 9:30 a.m. for a hearing titled "Penalty for Public Service: Do the Social Security Government Pension Offset and Windfall Elimination Provision Unfairly Discriminate Against Employees and Retirees?"

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

**COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Intellectual Diversity during the session of the Senate on Wednesday, September 24, 2003 at 10 a.m. in SD-430.

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

**COMMITTEE ON INDIAN AFFAIRS**

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized

to meet on Wednesday, September 24, 2003, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 1601, the Indian Child Protection and Family Violence Prevention Act of 2003.

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

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE  
AND NUCLEAR SAFETY

Mr. DEWINE. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Wednesday, September 24, at 9 a.m. to examine the findings of the General Accounting Office concerning the Federal Emergency Management Agency's financial allocations and activities after the terrorist attacks on September 11, and to conduct oversight on the Federal Emergency Management Agency's effectiveness since becoming part of the Department of Homeland Security.

The hearing will take place in SD 406, hearing room.

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

SUBCOMMITTEE ON CRIME, CORRECTIONS AND  
VICTIMS' RIGHTS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Crime, Corrections and Victims' Rights be authorized to meet to conduct a hearing on "Elder Abuse, Neglect and Exploitation: Are we doing enough?", on Wednesday, September 24, 2003, at 2:30 p.m. in SD226.

Panel 1: Daniel L. Mihalko, Inspector In Charge, Congressional and Public Affairs, United States Postal Service, Washington, D.C.; Honorable James G. Huse, Jr., Inspector General Social Security Administration, Washington, D.C.

Panel 2: Honorable Christopher Chiles, Prosecutor, Cabell County, WV, Vice President, National District Attorney's Association; James Wright, Director of TRIAD, National Sheriff's Association, Alexandria, VA; Lori A. Stiegel, J.D., Associate Staff Director,

Commission on Law and Aging, American Bar Association, Washington, D.C., AARP, Washington D.C.

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

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ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until Thursday, September 25, at 9:30 a.m.

There being no objection, the Senate, at 6:50 p.m., adjourned until Thursday, September 25, 2003, at 9:30 a.m.

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#### CONFIRMATION

Executive nomination confirmed by the Senate September 24, 2003:

##### THE JUDICIARY

LARRY ALAN BURNS, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.