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## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 1, 2005, at 2 p.m.

## Senate

MONDAY, JANUARY 31, 2005

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

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

Let us pray.

How great You are, O God, and how much we should praise You. Your greatness is beyond discovery. Each day, we meditate on Your unfailing love, for Your right hand is filled with victory. You guide us throughout the days of our lives, for Your salvation is near to those who honor You. Forgive us when we have sought fulfillment in the idols of our world. Help us to trust only in You, our helper and shield.

Today, strengthen our lawmakers in their work. Help them to faithfully follow Your wisdom. May they strive to help the fallen and to lift those bent beneath the loads of life. Bless the Iraqi people as they accept the challenges of freedom. Be with our military and protect all who defend our freedoms. We pray in Your Holy Name. Amen.

### PLEDGE OF ALLEGIANCE

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

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

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, today we are in a period for morning business with Senators permitted to speak and introduce legislation. We are hoping to confirm the nomination of Samuel Bodman to be Secretary of Energy. We expect that nomination to require little or no debate and a rollcall vote is not anticipated. Therefore, we do not expect any rollcall votes today.

In addition to the Bodman nomination, this week we expect to consider the nomination of Alberto Gonzales to be Attorney General of the United States. I have been discussing with the Democratic leader the prospects for an agreement for debate and a vote on the Gonzales nomination. I understand Members wish to talk on that nomination, but at some point I hope we can reach an agreement as to a reasonable period for debate and a time certain to vote.

I will continue to discuss this matter with the Democratic leader, and I hope to lock in a consent agreement at the earliest time. We have talked about it this morning and we will be talking about it over the course of the day and tomorrow.

The Homeland Security Secretary designate, Mr. Chertoff, is also expected to be reported by committee later this week. Following that, as soon as possible we would like to consider this nomination as well.

As a reminder to our colleagues, the President will deliver the State of the Union Address on Wednesday evening. Senators are asked to begin gathering in the Senate Chamber at 8:30 on Wednesday so we can proceed promptly

at 8:40 to the Hall of the House of Representatives for the 9 p.m. address.

I do want to thank everyone for their attention and will have further updates on the schedule at the close today.

### HISTORIC DAY IN IRAQ

Mr. FRIST. Mr. President, very briefly I will comment on what has been a very historic occasion in Iraq, something that has been symbolized on television and by pictures so vividly by the image of that blue ink-stained index finger which is being held up in triumph. Two days ago, people did not even think of that image and today it symbolizes freedom and liberty, those basic elements of democracy that we all cherish.

Yesterday, the Iraqi people, 8 million strong, went to the polls to participate in the first free Iraqi election in decades. We were in Iraq 3 weeks ago, and before we went to Iraq even at that time people were saying there is no way these elections are going to be successful, nobody is going to show up for these elections, and to jump 3 weeks ahead to today and yesterday and to see those ink-stained fingers in the air and the fact that approximately 8 million voted is truly spectacular. I think all of us should feel real pride for the courageous men and women who risked their lives for freedom. Those pictures on the news really captured it.

The people who voted came by foot, bus, van. They were old and they were young. They were men and women. It was all in defiance of the intimidation by terrorists, thugs, and assassins. In spite of the critics and the doubters,

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



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millions of Iraqis stood in line and cast their vote. As they came out, we saw those pictures of those ink-stained index fingers, the symbol of the power that is captured in that vote of freedom and democracy.

The Iraqi people yesterday showed their bravery, their boldness, their courage, and their heart. They showed the world that Iraqis, like all people, do yearn to be free. Baghdad's mayor was so overcome with emotion that he told one news agency:

I cannot describe what I am seeing. It is incredible. This is a vote for the future, for the children, for the rule of law, for humanity, for love.

This morning, and over the course of yesterday, I received numerous e-mails, letters, and written communication. The following letter from an Iraqi voter describing his elation at participating in this historic moment for his country really captures the essence of what the elections were all about. He writes:

Allow me on this historical opportunity to tell you how happy I am, and all those who I know. It is a great victory for Iraq, the United States and all freedom-loving people in the world. This is the event that children of future generations will read about in history books with great pride and appreciation to all who made it happen.

Today a new Iraq was born. This is the first seed of true democracy and freedom in our country and indeed the whole Arab world. Thanks to all who participated in, contributed to, protected and supported this historical event.

I also will want to applaud President Bush and the American people for their steadfast commitment, support, and encouragement of freedom in Iraq. Peace has not come and is not coming easily. We have suffered tough days and we all know there will be tough days ahead. We know the terrorists are committed to their violent campaign, but they will not succeed.

As we saw yesterday, Iraq is moving forward with the heartfelt support of free peoples all around the world. One of the people who will be instrumental in helping Iraq secure its freedom is our new Secretary of State, Dr. Condoleezza Rice. Last week, this Senate voted overwhelmingly to support her confirmation, and that was a proud and, indeed, historic moment. We are all fortunate to have a leader of her talent and intellect helping Iraq take each momentous step toward democracy.

It was a meaningful and productive week, as I look over the last several days. The Senate also confirmed former RNC Chairman Jim Nicholson to lead the Department of Veterans Affairs, and Michael Leavitt to lead Health and Human Services. Both are talented, gifted, and highly qualified men, and I know we all look forward to working with them.

Great tasks indeed are before us. We have much to accomplish, including, as I mentioned earlier, the confirmation of Judge Alberto Gonzales.

As we think about the week ahead on this Monday, it is appropriate to pause

and take note of yesterday's historic achievement for the Iraqi people and for the cause of democracy. As the President said in his inaugural address:

The survival of liberty in our land increasingly depends on the success of liberty in other lands. The best hope for peace in our world is the expansion of freedom in all the world.

Yesterday, we did come one step closer to realizing this great vision. Yesterday in Iraq we saw that liberty can light even the darkest corners and inspire great acts of bravery. We saw the proof of our deepest held principle: That all people do aspire to be free.

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business with Senators permitted to speak therein for 10 minutes.

The Senator from Mississippi.

#### PROUD OF OUR NEW SECRETARY OF STATE

Mr. LOTT. Mr. President, I, too, feel inspired and in fact moved to comment on the elections in Iraq and also some other things that I have witnessed during the last 2 days. I felt very emotional as I watched Secretary of State Condoleezza Rice yesterday morning, during one of several interviews on television.

Specifically, I am speaking of Chris Wallace's interview of our new Secretary of State. It was one of the most impressive interviews I believe I have ever seen in my life. This is obviously a highly talented, qualified, thoughtful, articulate person who has been sworn in to be Secretary of State. I have never seen a more moving interview in my many years in Washington, in fact over 36 years, than I witnessed during the interchange between Secretary of State Condoleezza Rice and Chris Wallace.

Actually, I found myself to the point of tears as I listened to what she had to say, and how she said it. I was captivated by how she responded not only to the world given the very important position that she holds in answering those questions, but also on a personal basis by representing what is good in America. This is a lady who came from Birmingham, AL, an African-American, who grew up at a time when Birmingham was segregated and it was difficult for her to get the education, the experience, and the opportunities that she needed for life.

She persevered, as did her family, friends, and neighbors, and she has now risen to one of the most important positions in the world that anybody could

have. She will be the face of America to the leaders of all of the rest of the world, and it is one that I believe they, as I, will be impressed with.

I will read one part of what she had to say in that interview. Interviewer Chris Wallace noted that he would play a clip from earlier this week at the White House when Condoleezza Rice was sworn in as Secretary of State and she referred to her relatives from Alabama who were there in the audience, and he asked his viewers to take a look. Secretary Rice said:

They represent generations of Rices and Rays who believed that a day like this might somehow be possible.

And then Wallace continued:

You have gone from a little girl in the segregated South to being the chief representative of this country to the world. What does that say about the United States?

At that point I felt sure that tears would well up in her eyes and she would have difficulty responding, but she kept her composure while she said this:

It says that the United States is a place that is living up to its principles, that has had a struggle to do that. I[t] also said in that, Chris, it was Thomas Jefferson who said that the God who gave us life gave us liberty at the same time and, of course, didn't himself personally carry that out perfectly. . . .

It just shows that democracy, if you have the right principles in place, if you have the right institutions in place, it may take a long time, but eventually the aspirations for one society unified despite race and gender and religion can start to come into being.

We still have a lot of work to do in America. I look out and I see that work. But I do believe that in a world where difference is a license to kill, to look across and to see people like me or Al Gonzales or others says that America is trying desperately and, in some sense, succeeding, in living up to those principles.

I thought that was a magnificent testament to her life, what she experienced, what others are dealing with, but also what it means about our country and the hope for a lot of young boys and girls who see Condoleezza Rice in the position she is in and recognize that they can succeed, too, in the American dream.

I continued to watch television, many different networks, and I started seeing the results of the Iraqi elections. It appears that it was a good election with a good turnout. I don't know what the exact turnout percentages are. Reuters reported it as being perhaps as much as 72 percent, I believe. In some parts of the country it was more than that, I would presume, and in others much less than that, but still an incredible turnout. Maybe it will be 60 percent, maybe it will be 58, maybe it will be 62, but the people of Iraq, under the threat of intimidation or death or future abuse, went into those polling places in huge numbers, stuck their finger in that little bottle of dye, and came out and showed it off proudly.

By the way, they are going to have to come to live with their dyed finger the

next couple of days. There will not be any hiding. If you voted in Iraq today, your finger will be stained today and tomorrow, but your life will be changed henceforth.

Maybe we can learn from them. We didn't have a 60- or 70-percent turnout in our election. I don't know exactly what the turnout was, but I am sure it is much less than that in America where we don't vote if the weather is not good or the traffic is too bad. But in Iraq they walked to the polling places, they put their lives on the line, and they were thrilled to be able to be a part of a historic event, of democracy in action, and they came out and danced in the streets. They said: We are very happy. They also said: Thank you, America.

A lot of credit can be passed out. It begins with the people of Iraq for what they did yesterday, to the men and women who are trying to make Iraq safe, their own policemen and national guard, and their own military. But a lot of credit goes to our military men and women who have done a marvelous job on the ground in Iraq. Even yesterday, they were there. They helped provide as much security as they could, but they were not interfering with the voters. They backed away. They left it to the people of Iraq and to their military and police and others.

I cannot give enough credit to the young men and women who have been there and their officers and noncoms, all of them, soldiers, sailors, airmen, marines, and Coast Guard. Obviously, they have all been a part of this. When I have talked to the young troops we have there, they are proud of what they are doing. They feel patriotic about what they have helped to do there.

Then, yesterday, they saw this begin to bear fruit. It doesn't mean the Iraqi people are free from terrorism. It doesn't mean everything has been done perfectly. It doesn't mean it is going to be perfect from here on. We don't know yet who won their election. It was a very complicated process. They had to figure out who to vote for or what list of people to vote for, and what number to identify. They still have a long way to go in cultivating their democracy. But for me, it was an inspiration. I was thrilled by what I saw, what I witnessed through the media. Not just one network or one station, all the different ones that were there in the country, showing democracy at work.

But also I believe credit has to go to our own Congress and the American people for showing patience and forbearance and giving of their treasure and American blood for a distant place, for people you don't really know. Many wonder, I am sure, sometimes, is it worth it? Why are we there? How long are we going to be there? All those questions come forward. But what struck me again yesterday was how people react to freedom, how people react to democracy, being able to go and cast their vote. It is liberating.

The President was right when he talked about the power of freedom and

democracy and how it is a flame that is igniting a fire all around the world over the last 20 years. We have gone from about 20 democracies in the world to 118 countries all over the world, in every continent, in places where you would not have thought it would be possible: Mongolia, elections in Ukraine, elections by the Palestinians. There is something very special going on here. I do believe it is contagious and that it will continue to grow, and not only the American people but the people of the world will benefit.

The odds of having an attack from people in a country where there is a democracy are much less than those who come from places where there is an oppressive government, dictatorship, or authoritarianism. Democracy is not perfect; it is evolutionary. We know that from what we experienced. But yesterday was a special moment. I hope the American people saw it, felt proud of what they were witnessing and the part we have played in making that day possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

#### SOCIAL SECURITY

Mr. JOHNSON. Mr. President, I rise today to discuss the future of Social Security. In recent weeks we have heard a lot about the President's intent to establish private accounts under the program. While no details have been shared with Members of Congress regarding his proposal, the limited information we have does indicate that the administration will only push and support a long-term solvency fix if it is married with a plan to divert payroll taxes to individual private accounts.

Beyond the private account issue, it is unclear what the other details of the Bush plan will include. I am willing to work with the President and Members of Congress to improve the long-term outlook of this program, but the American people need to be clear in their understanding of the facts. The fact is, Social Security is not in crisis and private accounts will do nothing to help with the program's solvency. Yes, we do need to think about the future of this program. I am willing to hear the President's thoughts and work with him on this issue, but I will not support any efforts to dismantle a program that has protected millions in this country from poverty, and provided a guaranteed benefit for our most vulnerable citizens in their time of need.

Social Security is the most important social insurance program ever created by this great nation, and it has provided seniors with the assurances they need in old age.

In South Dakota, one in five people count on this program to put food on their table, buy their prescription drugs, and keep the heat running during the long cold winters. The program

protects millions from poverty, and without it, the number of seniors living in poverty would rise from 10 percent to 50 percent. This is the mark of a strong safety net program and we must fight to ensure its longevity.

While in the long-term we do need to find a sound solution to protect the solvency of the Social Security program, one thing must be protected now—the guarantee to retirees that they do not have to worry about living in poverty in old age, no matter what they made during their working years or how long they live. Seniors must be given the security to know to the dime what they will receive under this program, rather than having to worry about the climate on Wall Street.

Since President Bush began his campaign for private accounts under Social Security, he has tried to convince the American people that the program is in crisis. This manufactured crisis is merely fiction and when you begin to look at the real numbers, you learn very quickly that his numbers just do not add up.

The administration has been trying to tell an alarming story in which the program is broke in 2019. Reality tells us that in 2019 we will just begin to dip into the \$3.7 trillion dollar trust fund to pay the Social Security bills and we will be able to draw on that fund for a long time—until 2052 according to the Congressional Budget Office.

At that point in time, seniors will still receive 80 percent of projected benefits, and still more in dollars adjusted for inflation than what beneficiaries get today.

The real fiscal crisis facing our Government today is not in the Social Security program, but rather in the Federal budget, which according to the administration will reach a deficit of \$427 billion dollars in 2005. This is the result of the irresponsible decisions of the administration that has pushed tax cuts for the wealthy during time of war and continued to fight to make those tax cuts permanent. I was alarmed to learn that in fact the entire Social Security shortfall over the next 75 years is about one-fifth the cost of the Bush tax cuts if made permanent. Beyond these problems, the rising costs of our health care programs will continue to threaten our budget stability. This is the real crisis we are facing right now.

At the end of the day, when you look at the numbers and the financial outlook for Social Security, we are in good shape for at least the next 50 years if not longer. When I look at the budget deficit today and a potential crisis 50 years from now, I am more concerned about ensuring that our Government can continue to pay its bills now and restore fiscal sanity to the Federal Government so we can honor our commitments in the near term—for soldiers in Iraq, for insurance coverage for the poor and for prescription drugs for seniors.

In the short term, the administration's plan to establish private accounts will actually increase our budget deficit and cost the Federal Government approximately \$2 trillion dollars over the next 10 years. He has not indicated how he would pay for that, and so that number just gets added onto the Federal debt, not even accounting for whatever privatization will cost us in the following years. Estimates indicate that this increased borrowing, primarily from foreign nations—Japan, China and others—could potentially double our publicly-held debt by 2041, further increasing our dependence on foreign creditors.

Yes, any long-term savings the administration plan might create will be at the expense of providing seniors and all Americans a guaranteed benefit.

I do believe that we should at least start a discussion about the long-term solvency of Social Security and we should explore all options for addressing this issue. I support encouraging Americans to establish private accounts only that are above and beyond what we do in Social Security right now. All of our citizens deserve a shot at a comfortable life in their old age.

To get there we need to create a sturdy stool—a retirement security stool that provides a solid leg through a secure, guaranteed Social Security benefit; another leg helps protect the health and long-term health care needs of all people; and a third encourages individuals to save money for their retirement years, through private accounts, pensions and other programs. These are the things we should be thinking about as we look to the future.

So what we have is a Social Security program right now that is solid, according to the nonpartisan Congressional Budget Office, through the year 2052, through the middle of this century. Even at the end of 2052, those payments for young people today would actually be higher, adjusted for inflation, than the monthly payments that today's recipients get. So is this a crisis? No. There is a problem, but there is not a crisis in the long term for Social Security.

What concerns me is that I think some of the proposals I am hearing about have more to do with ideology, more to do with trying to move the Government away from providing that safety net than it does to actually solving what problems that may exist.

I believe our seniors in South Dakota and across this country deserve to have a Social Security program with a defined benefit, that they will know to the dime what it is they are going to get when they retire, and that it is not contingent on whether the market had a good year or bad year in their runup time prior to their retirement. That defined benefit ought to be the cornerstone, ought to be the foundation, of every retirement. Whatever else happens, they should know that will be there, and that it does not involve a gamble in the stock market.

I believe people ought to be saving more; that they ought to be provided better mechanisms to set aside money which they can count on that will be over and above Social Security, that will augment Social Security. I think we need to have a good discussion about IRAs and 401(k)s and other kinds of pension mechanisms that will allow for private savings to augment Social Security.

But at the end of the day, the best thing this Government can do for the long-term solvency of Social Security is to get our annual budget into equilibrium so we can get back to where we were only 4 years ago—with budget surpluses rather than utilizing Social Security surplus dollars for the ordinary expenses of Government; and, that we put ourselves in a still stronger position midway through this century to make sure every American gets the benefits to which they are entitled and which they expect to have.

I look forward to working with President Bush and with my colleagues on both sides of the aisle on ways in which we can assist with the near-term crisis in Medicare, Medicaid, health care, the near-term crisis in terms of the budget deficit which our Nation faces, and the longer term problem that we have with Social Security, but in so doing I will not abandon the underlying philosophy of every American having a defined benefit program that will be the foundation of their retirement plan and on which they can, in fact, count.

I look forward to a constructive and positive debate. Doing nothing is not the solution. But concocting false crises with remedies which actually make a situation worse than it is now cannot possibly be the road that this Congress, this Senate wants to go down.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Wyoming.

Mr. THOMAS. Thank you, Mr. President.

#### CHALLENGES BEFORE CONGRESS

Mr. THOMAS. Mr. President, it is again time, as we begin this session of Congress, when challenges are before us—the opportunity to work on programs, some of which we worked on before and did not complete, some of which need to be worked on and haven't; such things as energy policy, of course, which we have worked on for some time. We are becoming more and more dependent as time goes by and as our consumption increases and our production does not.

The highway bill we talked about for a good long time. It is most important for our economy, for our jobs, for our transportation, and we haven't been able to handle it in the last couple of years; to move into something such as the class action activity that we are committed to so that we are not moving the liability claims around to different States to find a jurisdiction that is most favorable; and to do something

about tax simplification. We always talk about that. The Tax Code is that thick, and yet we continue to have it.

We have a real opportunity to do a number of things, and I hope we are able to do that. I hope we are able to have an honest debate and discussion. We did have different points of view, obviously, but I hope we move towards finding solutions to coming together better than perhaps we have in the past.

In addition—I guess this is really what I would like to comment about briefly today—I think we also have an opportunity and a responsibility to take a look at some of the existing programs, many of which have been in place far too long a time; indeed, maybe they should be. On the other hand, I think from time to time we need to have some kind of a system where we go back and take a look at older programs and see, as time changes, if those programs are still efficient, necessary, and as opportune as they were in the beginning.

We have new programs all the time, and we tend not to take a look at some of the ones that are in place to see indeed if they are still needed, to see if they do the job as well as they have been, and to see if they are as efficient as they can be.

I have in my desk a notebook that is nearly that thick with all the programs the Federal Government has in place. There are actually thousands of programs that are in place. Some are major and some are not, but nevertheless they are there. We are talking about balancing the budget and so on. Some of that ought to reflect the expenditures which have been going on for a long time, and still continue to go on.

Of course, when you have a program out there, the nature of it is that people get involved and it develops its own constituency which makes it difficult to change from time to time. I hope we can do some reevaluations of the ones that we have. We have some programs that obviously need to be changed.

The Senator from South Dakota was talking about Social Security. Obviously, it needs to be changed. He argues about whether it is a crisis, but the fact is, for one thing all the money that is in the so-called trust fund is not in the trust fund at all. There are IOUs in there that have to be repaid. In order to go beyond the 20-, 13-, or 18-year program that we talk about in order get to the 45-year program, that money has to be in place.

There are some ideas about doing that. Of course, a number of things could be done. Payments could be attached to the benefits' costs rather than to inflation, and a number of things. They will all be considered, of course.

There seems to be a lot of reaction to the so-called personal accounts. I think one thing that has to be considered by everyone who is interested, No. 1, people who are 55 or so are not affected at

all and will continue to go on as they have. Furthermore, those who aren't—the younger people—it is a choice they will make. Those are some of the things that need to be looked at to go forward.

I am personally very much in favor of encouraging people to have savings benefits of their own. After all, Social Security was designed to be a retirement supplement. In order to make it work really well, we have to have a program that is cost effective.

Medicare and Medicaid are in real financial difficulty—not only some of the Government programs themselves as they go forward but, because the impact of the cost of health care is not always fully paid by Medicaid and Medicare, the costs are shifted to people who have private insurance. That the entire cost is going up, the entire program—a great health care program in this country—becomes limited in access because of the costs. We have to do something about that.

As I mentioned, we have literally thousands of programs that are in place. I am not suggesting they are not useful. I am suggesting, however, that there needs to be some kind of a process. It is my understanding that OMB is talking about something that has some kind of a commission which would review the programs from time to time. I think that is a great idea. I don't know whether those programs are the ones we ought to have, and whether the Congress ought to appoint a commission, but there ought to be a way of evaluating. No. 1, how appropriate it is to continue those programs the same as we did 10 or 20 years ago, and whether those programs are being as effectively operated as they could be.

Sometimes when we talk about efficiency, we get a lot of feedback from people. But why shouldn't there be more efficient Government programs? We ought to ensure that, indeed, they are.

I think that is something we ought to take a look at to see if we can't have some kind of evaluation. I know it could be very time consuming. On the other hand, I think we could find ways to take a look periodically at the programs.

I wish we had some kind of a criteria for what kinds of programs are appropriate for the Federal Government. Particularly with programs that have some political clout for a Member, we find ourselves bringing it up and going with it. Some things you would really have a hard time saying they are an appropriate function of the Federal Government. There are so many things that could be done much better by State and local governments or by the private sector, but if it has some political appeal, we want to hop in there and do that.

I don't know exactly what it would be, but it would seem to me it would make sense if we had some criteria to say these are the kinds of conditions

that would justify Federal involvement, not only because of the cost but most of us would like to see some control.

We talk about deficits, but we never seem to talk about holding down the activities and the size of the Federal Government. I know these are easy things to talk about but difficult things to resolve.

I guess the President is suggesting that as we go about our work we hopefully will keep in mind a couple of thoughts. One is periodic evaluation of programs to make sure they are, in fact, efficient, effective, and still necessary. The other is that we take a look at some of the various prospects which are brought up.

For example, I chair a subcommittee which deals with national historic sites. We have a long list of national historic sites. Some of them, quite frankly, you would have a hard time justifying in terms of any national significance. There are very likely to be some things which are good for the main street of someone's hometown. Of course, we all want to do that. But there needs to be some criteria so it fits into this program.

These are some of the things I hope we can take a look at and make the Federal involvement a little less widespread and make sure what we are doing is done efficiently.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I look forward to working with my good friend and colleague from my neighboring State of Wyoming.

There are common grounds on issues that he has raised. I certainly agree that we need to always be on the alert for ways to find efficiencies in our Federal budget. However, I think we also need to keep in mind the reality that the domestic discretionary share of the Federal budget is now about 16 percent of that budget.

As we look at ways to get our Federal budget back into equilibrium, one of the best solutions I believe would be to return to the budget rules which existed throughout the 1990s—the so-called budget rules which require a Congress any time it attempts to raise the spending above a certain baseline or cut taxes simultaneously to explain how it is going to be paid for so that the end result is budget neutrality, allowing the Government to grow its way out of budget deficits. That is the reason we had three consecutive years of budget surpluses in the 1990s. I believe we need to return to that kind of budget discipline. Regrettably, the administration opposes that discipline. But I believe, given the massive size of today's budget deficit, we need to create that structure once again.

It concerns me when people allude to the Social Security trust fund as though it were some fictitious entity. The Federal Government borrows the money currently out of surplus dollars

that come in through Social Security taxes—FICA taxes—and then issues to the trust fund a Treasury bond. It is no different than all the other borrowing the Federal Government does. The Federal Government has never in our entire Nation's history reneged on its bonded indebtedness. We would never dream of doing that and destroying our creditworthiness internationally. It would be, I believe, an immoral act to do so.

The only reason there could be a long-term crisis in Social Security is if this administration and future administrations determine not to pay back its bonded indebtedness to the Social Security trust fund. It would be an unprecedented step. We need to make sure that is a step that is not taken. One of the best ways of doing that is to get our overall Federal budget back into equilibrium.

#### ELECTION IN IRAQ

Mr. JOHNSON. Another issue about which I will share some thoughts with my colleagues today is my hope—and I think it is shared by our entire Nation—that this election in Iraq is the beginning of a new era, beginning of a greater era of stability and opportunity for the United States to diminish its presence in that very troubled place.

My own oldest son served in combat in Iraq, and I appreciate profoundly the sacrifices and the risks and the courage of so many who have served our Nation there and in other dangerous places around the world.

We have this hope while at the same time recognizing that one election does not a democracy make; that the potential for ongoing violence, for chaos in many parts of that difficult country remain, and the election will be viewed more credibly by some than by others. I am pleased the turnout seems to be significant, seems to be supportive, certainly, in the Kurdish and Shiite regions; less so in the Sunni areas where most of the violence has centered. Nonetheless, it is our hope this is a beginning, a start, at least, to the point where we can begin to take troops at some near rather than later time back home to the United States.

We have paid a dear price. We are expending in the range of \$2 billion per week in Iraq, in a country that was a regional threat, was not involved in international terror, but which was a regional threat to its neighbors at one time. It certainly is our hope the efforts that are ongoing there will lead to the "Iraqification," if you will, of that country and the development of some self-governance in Iraq. The expenditure has been immense. We have not seen President Bush's budget for the next fiscal year yet. I am told to anticipate we will be spending \$1 billion per minute on defense. This is a remarkable undertaking, an obligation that we are going to have to deal with. It is my hope we will in the future approach these conflicts with a greater

eye toward multilateralism, toward cooperation with our allies—whether it be NATO, the U.N. or other regional security groups—and that we understand the reality that it is much easier to win wars than it is to win peace. It is certainly our hope that perhaps today marks some beginning in the progress toward if not peace, at least greater peace and greater stability than currently exists in that nation.

I commend the troops who have served with such courage and such distinction, their families. I have contacted two South Dakota parents just today about the loss of their sons' lives. It is something that strikes home to me in a very profound way because of the experience of my own son. These families will never be the same. These losses are devastating. We sometimes see the numbers in the newspapers and treat it as though it were just another daily event, but each and every day these losses constitute a life-shattering experience for so many parents, so many families, so many spouses, so many children. We should never look lightly on the contributions, the courage, the distinction, the professionalism exhibited by these troops, and let us, as a Senate, do still more to see to it that to the degree we put these young men and women in harm's way we do so selectively where no other recourse is realistic and that when they are in harm's way they have the equipment, the ammunition, the body armor, the other resources they need to minimize what is already an enormous risk to each and every one of them each day they serve in that country.

I express gratitude to our troops, their families, and caution that we still have a long way to go. The administration has indicated we may have troops in Iraq for another 5 years. I hope it is not that long. I hope we can see progress that will allow us to get every single one of our troops home sooner rather than later; that we can get this massive expenditure off the shoulders of America's taxpayers and be able to devote more of those dollars to the domestic needs we have in the United States, but at the same time recognizing yesterday was a day of some hope and expectation that perhaps better times will come in Iraq.

I yield the floor.

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

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

The PRESIDING OFFICER. The Senate is in morning business.

Mr. DURBIN. Mr. President, let me acknowledge my colleague from the State of South Dakota, who is unique in this Chamber. Those who voted on the question of whether America should go to war in Iraq were certainly representing our constituents in thinking of the American people in that historic and tremendous decision. My colleague from South Dakota, TIM JOHN-

SON, was the only Member of the Senate who understood that decision would affect his family directly. I am glad your son is home safely. I am glad he is now living in Illinois. I hope he is still enjoying that experience and happy about his recent marriage to a Lithuanian-American woman, and I wish them the very best.

For those who ask the question, and it has been asked by some, How can Members of Congress appreciate what a war means if none of their children are serving, my colleague, TIM JOHNSON from South Dakota certainly understood that personally as others have in the past.

What a great triumph yesterday. There was a possibility that all the violence in Iraq would discourage people from voting. One can understand that when they are lobbing mortar shells in the green zone, the protected zone in Baghdad where American soldiers a couple weeks ago were eating a meal. One can understand the vulnerability of life in Iraq.

Each citizen had to make a decision yesterday in Iraq, whether to risk their life to vote. It appears millions were prepared to do so. As Senator LOTT of Mississippi said earlier, after they voted, they dipped their finger into this indelible ink, an indication they had already voted so there was no duplication voting, and that ink was on their hands today, testimony, as well, for the insurgents that these Iraqis had defied the insurgency to cast a vote for their future.

It was a great triumph, a triumph of human spirit, and a triumph for the Iraqi people, all that they have been through, to finally have this moment to have an election. A great deal has to be said for the men and women of our American military who made it possible. They risked their lives again yesterday, as they do every day in Iraq, to try to bring this to a peaceful end. They were successful yesterday in creating the zone of safety so that the Iraqi people could be part of this triumphant moment in their history.

I thought about that triumphant moment as I reflected on information I received over the weekend about two Marine Corps corporals from Illinois who died on January 26 of last week in the deadliest day of the war for the United States. That was the day when the Marine Corps helicopter crashed and 31 Marines lost their lives. Among those 31 Marines were Hector Ramos of Aurora and Nathaniel Moore of Champaign, young men in their twenties who volunteered to serve this country, who with great pride joined the Marine Corps, went through the rigorous training, and went off to risk their lives for America. That story has been told and retold thousands, tens of thousands, hundreds of thousands of times, but we do not appreciate how important that decision is by each of the men and women in the military until a tragedy occurs, as it did with the crash of this helicopter a few days ago.

I read the stories in the paper about the two young men. They were excellent people. I am sorry I did not get to know them. I dropped notes to their families expressing my sorrow about their loss, and I am sure everyone in America will join in expressing sorrow for the loss of some 1,400 now, American soldiers, who have made the supreme sacrifice in this war in Iraq.

What it leads to is this: If yesterday was a turning point in Iraq for their self-governance, the question I am prepared to ask is, Was yesterday a turning point in terms of Iraq's security in its future? We have been trying for almost 2 years to train Iraqis to take responsibility for guarding their own country, and we have had a terrible time of it. The administration gives us inflated numbers, 120,000 Iraqis in their army and security force, and yet other military experts say no, only 4,000 will be willing to stand and fight. Many more have gone through the training, but they are not willing to defend their country.

So what happens? One-hundred fifty thousand Americans risk their lives just like the marines who went down in that helicopter last week and the others who have died since.

My question to this administration in the White House here, as well as the new government in Baghdad, is this: Now that you have reached this new point in your history of self-governance, of the responsibility of controlling your own future and your own fate, will you now step up and meet with our President and our leaders and discuss the day and how soon it will come when Iraq can defend itself? How soon can we expect Iraqis, trained, well-equipped, to stand in and take the place of American soldiers to come home?

Illinois is not unlike a lot of other States. Seventy percent of our National Guard have been activated or have already served in Iraq. I have attended sendoffs and the welcome-homes. They are emotional times. I went a few weeks ago to Litchfield, IL, and saw 80 of our National Guardsmen who were activated in an infantry unit off for 5 months training in Ft. Stewart, GA, and for a 12-month deployment in Iraq. Emotions ran high in the Litchfield High School gymnasium that Saturday afternoon as the troops stood at attention and the families faced them and we all wished them the very best and told them they would be in our prayers, as they should be.

I would like to be able to say to the families who are waiting anxiously back in the United States that the election yesterday meant something. It meant that we have reached a turning point. It meant that Iraq is now going to take responsibility for its own future. We have been talking about it for a long time, for over a year and a half, and have little to show for it. Now is the time for concrete results, for this administration to meet with the new Government of Iraq and to start moving in a specific pattern, in a definable

schedule, toward a real goal of starting to bring American troops home.

When I hear that, then I will be ready to stand up and applaud what happened yesterday; not just for the courage of the voters but the courage and leadership of the new Government in Iraq, that they will stand up for their people so that our soldiers can come home safely, which is what we all pray for.

That is what I took from yesterday's election, a great triumph for the Iraqi people. Tragedies that we have seen involving Americans, I hope, will diminish now. This administration has to move us beyond the promise to the reality of the Iraqis defending themselves.

#### ENERGY

Mr. DURBIN. In the New York Times yesterday, Thomas Friedman, their foreign correspondent, made a valuable suggestion that relates both to the Energy Department, which Dr. Bodman will be heading, as well as our challenge in the Middle East. It is a point I have made but not as eloquently as Thomas Friedman in his article.

He said he is now part of what he calls a "geo green movement," and he defined it as follows: The United States of America should be moving toward energy conservation and new renewable sources of energy to lessen our dependence on foreign oil.

The vast majority of Americans believe that is a good thing. I certainly do. You would believe that most people in this Chamber would. But not when it comes to the actual votes on better fuel economy and better fuel efficiency for America's trucks and cars. I have tried several times unsuccessfully to pass this.

How can we honestly talk about reducing our dependence on foreign oil when we continue to drive these SUVs and trucks and cars with worse gas mileage every year? Almost 50 percent of the oil we import goes into refineries in indoor gasoline tanks. And unless or until we use less of that oil, we cannot reduce our dependence on foreign oil.

The point being made by Mr. Friedman in his article is that when America needs less foreign oil, and the price of a barrel of oil comes down, then a lot of these countries in the Middle East that supply us with oil will no longer be able to subsidize the lifestyles of monarchies and the governments of inequity. They will be forced to open and diversify their economy. Women will go to school. You will have more training of people in the workforce.

But as long as we have an inflated cost for a barrel of oil, and they are bringing millions if not billions of dollars from the United States into these Middle Eastern countries, there is no impetus or force for change in that society or lifestyle.

So Mr. Friedman challenges us in Congress and in this Government to move toward more fuel efficiency and

more fuel economy, to lower the price of oil and to create another force toward democratization, toward opening the societies and governments of the Middle East. It is hard to do. It is hard to do without Government action.

My wife and I were recently looking for a new car, so we kind of laid down some rules: We wanted to buy American. We did not want an SUV. We did not need a big car like that. And we wanted something that is fuel efficient.

Well, good luck. In America, there were not many choices. We kept reading about the Ford Escape hybrid. As we read about this possibility of 35, 36 miles a gallon in the city, we went out and put in an application for one. Do you know it took 5 months to get it? Those cars are in such high demand now you cannot buy them.

So there is a market out there, and we need to encourage that market for fuel efficiency and fuel economy. It is not only good for reducing our dependence on foreign oil, it is good for the environment to burn less gasoline.

I gave a speech 2 weeks ago in Chicago to a group of professional engineers and talked to them about energy and about the need for conservation. They stood up and said: We can't understand why the Senate doesn't get it. Why aren't we moving toward more fuel efficiency and more fuel economy?

Well, the honest answer is this: The Big Three in Detroit have been slow to this issue. Once again, they were scooped by the Japanese who offered hybrid automobiles long before Detroit offered them.

Why, with all of our great engineering schools, with all of the great scientists and departments of science in our major universities, do we always run a distant second when it comes to this new technology on automobiles and trucks? I do not understand it. Detroit seems to be a year behind consumer needs and appetites. I hope that changes, and changes soon.

I spoke to Dr. Bodman about this, and he reminded me it is more the province for the Department of Transportation than the Department of Energy. But when we consider an energy bill Senator DOMENICI will bring to the floor soon, look closely to see if there will be one word in there about fuel efficiency in cars and trucks. The last time there was scant reference to this challenge we face.

Well, we have to look at that from a new perspective, an honest perspective that will not only help us and our environment and lessen our dependence on foreign oil but force some changes in the countries in the Middle East which, sadly, will not change unless there is some outside force.

#### DARFUR

Mr. DURBIN. Mr. President, I would like to speak to an unrelated issue but one which has been of great concern to me for some time and to many of my colleagues on both sides of the aisle; that is, the situation in Darfur.

Last week, the United Nations Commission on Inquiry was expected to issue its report on the Darfur situation in Sudan. Public releases have now been delayed until the beginning of February.

That is unfortunate given the urgency of the crisis on the ground. It is one more delay among so many that have cost lives and delayed justice.

What media attention the Commission's report receives may focus on the question of genocide. That question revolves around whether the tens of thousands of killings, the systematic rapes, the destruction and bombing of villages, the burning of fields, and the poisoning of wells in Darfur constitutes genocide.

I believe it does. Congress has called it genocide in a resolution which we passed on a bipartisan basis last year. President Bush has called it genocide.

The use of that word is significant. President Clinton—and I supported so many parts of his administration—made a serious mistake in foreign policy in not referring to Rwanda as a genocide. Many Americans now are seeing through the movies what happened in Rwanda. They read about it, but it was so far away. This movie "Hotel Rwanda," talks about one man who tried to save so many innocent people during the course of what was clearly a genocide. For reasons I cannot explain, the Clinton administration was reluctant to use the word.

Now comes the situation in Darfur in Sudan. And this administration, to their credit, has used the word "genocide." Why is that important? It is important because civilized countries of the world agreed, decades ago, that if a genocide should occur, we will not stand idly by. Now, why? Because we remember what happened in the holocaust in World War II.

You probably saw the references over the weekend to the anniversary celebration of Auschwitz and some of the surviving prisoners who went back, Jewish survivors who came to that same place where so many lost their lives, remembering what happened 60 years ago, and how they were finally liberated by the Russian soldiers who came to cut the barbed wire and free them. That was a genocide of the Jewish people and others.

We decided after the knowledge of that incident that we would stand as civilized nations and say: Never again. If there is a systematic attempt to kill off a people or a population, we will respond. That is why the use of the word "genocide" by Secretary of State Colin Powell, by the Congress, and by the President has such historic significance—not that we are just acknowledging the problem, but we are acknowledging a responsibility to do something about it.

Think about that. If we accept the moral responsibility of recognizing the problem, do we not have an equally great if not greater moral responsibility to do something about it?



That word, "genocide" was invented in the killing fields of the 20th century, but it certainly describes Darfur.

The use of the word matters. It carries the weight of history in a way that no other word can.

But calling it genocide by our Government has not stopped the killing in Darfur. It has not triggered a meaningful international response because words, no matter how much they matter, are not actions.

The discussion that emerges from this report should not be about words; it should be about action and what we can do to stop the killing.

A few weeks ago, Sudan reached a landmark peace agreement. You see, this poor country was driven by two conflicts, one in the south and one in the west. Sudan reached a landmark peace agreement relative to the north-south conflict, the conflict that has racked their country for decades.

The Naivasha agreement should be celebrated. But this peace agreement does not include Darfur, a separate region that is facing its own genocidal conflict.

In the last 10 days, over 100 people have been killed and more than 9,000 were injured by Janjaweed rebels, according to the United Nations. Reports from the BBC indicate that the Sudanese Air Force may have bombed a Darfur town, killing another 100 people.

Today, there are approximately 1,400 African Union troops in Darfur, a region roughly the size of France or Iraq—1,400 peacekeepers from the African Union. They cannot stop the killing. In fact, that is not even their mission. They are supposed to be monitors of the cease-fire that has badly broken down. Their mission is just too limited, and their resources and numbers are too few.

Eleven years ago, we failed to act when the machetes came out in Rwanda. Eight hundred thousand people paid for our inaction with their lives in that African nation.

We cannot make the same mistake in Darfur. Americans understand that. When Americans were asked in a recent poll whether they thought the United Nations should step in with military force and stop the genocide in Darfur, three out of four Americans said yes. The support is bipartisan. In fact, Republicans favor intervention even more wholeheartedly than Democrats in this poll.

Almost two-thirds of those surveyed believe the United States should be willing to contribute troops to an international effort to stop the genocide.

Let me just say a word about that. As I would have the troops, 150,000, start coming home from Iraq, and it would take a small fraction of that number to create a presence in the Sudan to make a difference. President Bush demonstrated that in Liberia last year. Just the mere presence of some marines on the ground stopped the killing.

When they come to understand—these African rebels, these killers—that the United States will stand up to them, they back off. African Union troops, 1,400 of them, have not been able to convey that message. Americans believe the world should act, but they do not believe it will, according to the same polls. I hope our actions prove their pessimism wrong.

In Sudan, we have seen violence carried out by the Government, in some cases by antigovernment rebels and by the Janjaweed, the government-sponsored militia whose name translates roughly as "evil horsemen."

Now, the Book of Revelations in the Bible reads as follows:

I looked, and there before me was a pale horse. Its rider was named Death, and Hades was following close behind him. They were given power over a fourth of the earth to kill by sword, famine and plague, and by the wild beasts of the earth.

That must be what it feels like to be the people of the Sudan when the Janjaweed ride in.

In the New Yorker this summer, Samantha Power, who has written so forcefully about genocide in the history of the world, and particularly in Rwanda, described a woman named Amina. This 26-year-old mother found the wells of her village stuffed with corpses. One of them might have been the body of her 10-year-old son. She is not sure. She only found his decapitated head. That is one story among 70,000 in Darfur—70,000 stories of men, women, and children who have been killed. And their numbers grow every day.

We have to help stop this. The people of Darfur have borne witness to all four horsemen of the Apocalypse—conquest, war, famine, and death.

The United States needs to forge a long-term strategy toward Sudan that helps that nation build on its north-south peace agreement. It is our responsibility, based on international law, strategic interests, and moral values.

The Convention against genocide spells out our legal obligations. Strategically, Sudan is the largest country in Africa. Its influence extends well beyond its borders. And from a moral perspective, the victims of conflict in that nation demand mechanisms for justice, peace, and reconciliation. We must be our brother's keeper.

Darfur represents a turning point for Sudan, for Africa, and, yes, for the world. If we can collectively respond, however belatedly, we set a new benchmark, not for death and destruction but for conflict resolution and accountability.

President Bush, in his inaugural address, said that our freedom in America is attached to the freedom of other peoples. Some said he went too far, that was too broad a mandate. The United States cannot, in fact, police the world. And the President answered by saying that is our aspiration, our ideal, our goal. It is not a commitment we will do

in every country where freedom is being lost every day. I think that is a reasonable response from the President. But certainly in this Darfur region we understand the lack of freedom relates directly not just to tyranny but to death.

There are a series of concrete steps we ought to take. First, I believe the President should name a new special envoy for peace in Sudan. John Danforth, our former Ambassador to the United Nations, showed us how important that position can be. My hope is the President will name another individual of similar stature and ability to direct our efforts.

Second, the African Union has undertaken a noble mission, but it is underfunded and undermanned. We have to work with the African Union to provide whatever logistical or technical assistance is needed to speed up this deployment.

The African Union represents the vanguard of conflict resolution on the continent of Africa. Anything we can offer to help it expand its peacekeeping capabilities will have repercussions and benefits far beyond the nation of Sudan.

Third, the people of Darfur deserve justice. It took too long for the world to pay attention, but the fact is, we have finally awakened.

If there is no accountability in Darfur, what hope is there elsewhere? Otherwise, the message we send is that one may kill, rape, and terrorize with impunity because while the world may call this genocide, it does not act.

The International Criminal Court was founded to address "the most serious crimes of concern to the international community." What can be more serious, more heinous, than the genocide that has taken place in Darfur, that is still taking place in Darfur?

The International Criminal Court was designed just for this terrible moment, and I believe the United Nations Security Council should refer this case to the ICC.

In a recent editorial in the Washington Post, former Bush administration official Jack Smith argued that support for the ICC was inconsistent with U.S. law and administration policy. Smith wrote:

The Darfur case allows the United States to argue that Security Council referrals are the only valid route to the ICC prosecutions and that countries that are not parties to the ICC (such as the United States) remain immune from ICC control in the absence of such a referral.

An ICC referral has the advantages of speed and structure, but it is not the only path to justice. The Security Council could instead authorize the creation of an independent tribunal on human rights and crimes in Darfur as it has for Rwanda and other cases. This will cost more money, and it will probably cost time, but it is an option. What is more important is that the international community pursues accountability in one form or another.



The United States should also share its evidence of genocide with whatever body is named to seek accountability for the terrible crimes in Darfur.

President Bush spoke last week in soaring, inspiring rhetoric about liberty, freedom, and our place in the world. But there is no liberty without basic human security. There is no freedom when armed men sweep down upon your village, raping and murdering its inhabitants. And there is no justice when the world recognizes all these terrible facts and yet does nothing.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. I ask unanimous consent that I be permitted to speak up to 10 minutes as in morning business.

The PRESIDING OFFICER. The Senator has that right.

#### FREEDOM RINGS IN IRAQ

Mr. DOMENICI. Mr. President, this is a very pleasant and happy day for the Senator from New Mexico, and I hope for many Senators, Americans, and people who like freedom around the world.

I congratulate the President of the United States. He has had a very powerful commitment to freedom and democracy in Iraq. There has been discussion for many months about whether our mission in Iraq would work and about why we are there, but I think today we have seen the first giant step toward freedom for the wonderful Iraqi people who have suffered so long under tyranny and were made slaves, whose loved ones suffered, were enslaved, murdered, entombed, and killed. Thousands emigrated from that country. This is a great day for them, and I think they showed us that it was a real issue.

I am sure many did not believe these people would risk anything serious, including their lives, to have a chance at freedom. The President, by his strength of character and commitment against many odds, carried this issue forth to an electorate and an election, and has stayed with it until this great day when we saw grassroots freedom come alive.

This is an occasion when some might wonder whether we ought to have a free press over there observing things, especially in a war zone so to speak, but this is an occasion when it is obvious that it worked. Even skeptics who were there could not deny reality. The reality was that people, young and old, were not afraid of the threats of terrorism and risked everything for that little idea of exercising their franchise.

We saw them putting up their inked finger indicating "I voted." I thought it was tremendous. For that, I am very proud that I supported the President in this. I hope he is proud of what he has done.

I don't want anyone to think the Senator from New Mexico does not understand there are many pitfalls, and there may still be some that are difficult to overcome.

Ultimately, freedom and democracy are not the end. You have to have some kind of economic prosperity, stability, and law and order. I have said democracy and freedom do not work too well if you are hungry, if you are starving. That makes it pretty easy for people who would overturn freedom and democracy. The Iraqis are a fortunate people. They have a lot of resources. Let's hope they can develop them to the betterment of all their people.

There are three things I am thankful for today. The second is the U.S. military. We send our military to do much on behalf of the American people and to accomplish missions we think are important. This one I am sure many people looked at and said: They are just not going to be able to do it; this is not a role for American fighting men; they can't help with the voting; they can't get rid of the terrorists in sufficient numbers, even with sufficient intelligence and planning, to let an election move on. A lot of people thought that.

I submit that those who run the American military at the top, and those whose boots are on the ground and who run the machinery and equipment, are sending a signal: You asked us to do something. Give us some time and we will solve the problems and we will do it.

Didn't they do that and prove it yesterday? Did anybody think it could be so peaceful in so much of Iraq? There was so much opportunity for people to walk to the polls and not get killed, to see their neighbors going and then get sufficient strength and courage to join them because the terrorists were not there. There was some terrific plan, with the Iraqi soldiers who were getting trained, and ours, to create this safe haven, a significant safe haven. I surmise that a lot of hard work took place in the rooms where planning is done, in the evenings when people work, between our military leaders and the new budding leaders of the Iraqi military and Iraqi law enforcement.

I think the Iraqi police and military probably were invigorated by this event, and I would think that they, too, will be stronger and better for it.

Again, as I have on a number of occasions in my years as a Senator—it is going on 33, so I have seen a few victories—I have seen a few involvements where it was very difficult. I have seen the Vietnam war, seen the Korean war a little bit; I have seen great achievements and otherwise, but I think this is a rather significant indication of how our military will help us if we will help them.

I am so proud we did not get to the point where the naysayers in America made it impossible for the military to do their jobs. It was getting ever closer to that, but it did not get there. I think that is very fortunate for freedom, liberty, and the whole Middle East—a terribly important part of the world.

Then, lastly, I congratulate the Iraqi people. Many of those who did not like what was going on over there, many who voted for us to go in and changed their minds—there were 77 Senators who voted for us to do that, go in—to some who had just been against it turned and were accusatory of our President. Some called him a liar. Some said he had misled. That is for another day, another argument, which I have already made that I think clearly indicates those kinds of things were not true. There were no weapons of mass destruction, but that doesn't mean there were lies about it.

But some said the Iraqi people should have been dancing in the streets as our military marched through and went to Baghdad in such fast order, you recall, with very few lives lost in the American military, and very few Iraqis. But there was not laughter and joy and marching bands in the streets. But when the day finally came, when the people thought they were really rid of the tyranny of Saddam, they did. They did come forward with joy in the streets and hope in their eyes, feeling very satisfied with the job they were doing by going to vote.

So it is a very pleasant task for a Senator to come to the floor after having heard so much negative about that, even negative about our military leaders, and to say to them, to the Iraqi people, the President, to the American people who have supported this effort for freedom—we all have supported it with a lot of our tax dollars, along with our best men and women and a great deal of equipment and other things—Job well done. May the next set of actions that are required come forth and be as good as this for the people there in Iraq and the Middle East. I only hope that as we look at this and are rather pleased as Americans, that some of our normal and natural allies in the world who have become pointedly in opposition to what we have done and have carried it even further, to where people seem to think Americans are not their friends and they don't want to be our friends and we have qualities and attributes they don't like, I hope this sends a signal that maybe they ought to become more rational and reasonable about what we mean to each other. After all, we have been through a lot together—France, Germany, Italy, Belgium. We don't have to worry about the English. They have been with us all the way. We have been through a lot of sweat and blood in the name of freedom with those allies, to our cost in lives and to our cost in billions of dollars. It is not that they owe us anything. But I think they might at least say they might have been wrong

in this or at least maybe the American President had a reasonably good idea and how we ought to get together and hope that together we will try to make it work. I hope that is not asking too much.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

### SOCIAL SECURITY

Mr. HARKIN. Mr. President, I am going to make some remarks today regarding the now unfolding debate regarding the future of Social Security in our country. I don't intend that my remarks will be the end of what I have to say about it, but only the beginning. I envision this to be a long and serious and involved discussion over the next weeks and months regarding Social Security, the future of Social Security, what we are going to do about it as a country, and what the President might be proposing also.

At the outset, let me say that Social Security is the most enduring and popular and successful Government program in our Nation's history. When Social Security was created in 1935, nearly 50 percent of seniors lived below the poverty line. Americans did not look forward to retirement; they feared it. But today, thanks to Social Security, the number of seniors living in poverty has been reduced to 10 percent, and most Americans are able to look forward to their retirement as their golden years—years to be spent enjoying their grandkids, their community, traveling, and having better health. It is an extraordinary achievement for this country to have achieved just since World War II.

Now, to understand the success of Social Security, we have to be clear about what Social Security is not. It is not a welfare program. Only those who work and pay into Social Security are eligible for its benefits. Likewise, Social Security is not an investment program. For that, we have IRAs, 401(k)s, individual development accounts, IDAs, and a vast range of private saving and investment accounts.

So if Social Security is not welfare and if it is not a retirement investment program, then what is it? Well, simply put, it is an insurance program. That is why it is called Social Security insurance. It was established in 1935 to provide benefits to workers and their family members—yes, upon retirement, disability, or death. In fact, the original name for Social Security was the Old Age Survivors and Disability Insurance Program, or OASDI, as we have come to know it.

Social Security is a social insurance program that embraces almost the entire American family. It is the highest expression of our connection and commitment to one another. It reflects our core values, our compassion, our decency, our bedrock belief that no senior, no orphan, no survivor, no person with a disability, no member of our American family will be left behind.

I talk about it in terms of our American family because I make the analogy with our own private individual families. In good times, in normal times, the individuals in our own families are independent, self-sustaining, going their separate ways, building their individual good futures. But in our own families in times of misfortune, financial crisis, old age, or death that is when individuals in the family pull together. We come together, sacrificing, if necessary, to give aid, comfort, and support to the family member who is in need.

As Americans, we all value the benefits of the free marketplace. We all believe in individual responsibility. However, we also know that sometimes markets fail. We also know sometimes people fall on hard times, through no fault of their own. Sometimes people become disabled. That is exactly why we have a social security insurance program, to provide a basic safety net for the elderly, for survivors, and for Americans with disabilities.

Social Security has a deep meaning for me and my family, and it is a story I will be telling a little bit today, and I will be enlarging upon it later, but it has to do with my family when I was young, but as it relates to a lot of families today.

I was born in 1939. My father was 54 years old when I was born. My mother was 44. When I was 10, my mother died. My father had three kids under the age of 18. My father had only an eighth grade education. He worked most of his life in the coal mines in Iowa. Not too many people know we had coal mines in Iowa. During the Depression, he worked on WPA programs. In fact, on the wall of my office I still have his WPA card to remind me from where I come.

Then during World War II, when my father was in his fifties—the coal mines pretty much shut down—he was able to work in an ordnance plant and had paid in the requisite quarters to qualify for Social Security.

So when my father reached the age of 65, which was in 1951—and I was now 11 years old—he was in bad health. He suffered from what we called miner's lung in those days. We did not call it black lung; we called it miner's lung. Basically, the most he could do was to work odd jobs, painting houses, fixing things up, and other jobs such as that.

His total Social Security check at that time was about \$120 a month. That was the sole source of income for our family. We had no outside income. He had no savings. We owned no land. We owned no stocks. We owned no bonds.

We owned nothing except the little house we had. So that \$120 a month was our total family income. We lived on that.

I relate that story because when we were young and growing up, Social Security was the only thing standing between us and welfare. We all worked as kids, even at 12, 13, 14, 15. We all had jobs, whether it was working on farms or whatever it might have been. But the fact that my father was able to get Social Security when he was 65 and he was unable to work—most people in those days were unable to work because they worked pretty hard all their lives—was what kept us together as a family.

One might say that was then and today is different. Things have not changed all that much since the 1950s. Today one out of every five seniors, 20 percent, rely on Social Security for 100 percent of their income. For two-thirds of our seniors, Social Security is the major source of income. There may be a little bit of something else. In fact, according to the publication of the Social Security Administration, in the year 2000, nearly 48 percent of American seniors would have fallen below the poverty line if they had not received Social Security. In other words, take away Social Security and we are right back to where we were in the 1940s or 1950s with nearly half of America's seniors living in poverty.

I understand that we have long term problems to deal with in the Social Security program. However, the good news is that Social Security is financially strong and will remain strong for decades to come. This year Social Security will run a surplus in the neighborhood of \$150 billion. The cumulative Social Security surplus now stands in excess of \$1.6 trillion. And guess what. Every single one of those dollars is invested in rock solid Treasury securities backed by the full faith and credit of the U.S. Government.

What is more, according to the 2004 Social Security Trustees Report, in the year 2003, surpluses in the Social Security trust fund earned an average interest rate of 6 percent. By contrast, over the 5 years ending with 2004, money invested in a stock fund tracking the Standard & Poor's 500 Index would have lost an average of 2.4 percent per year.

Many people say that money you put into Social Security is gone; it is not there; the Government used it. When they devised Social Security they said: Yes, Social Security money has to be invested in Government securities. Why? Because Government securities are backed by the full faith and credit of the U.S. Government.

I have been hearing this nonsense for the more than 25 years I have been in public life: Oh, Social Security will not be there for me. More young people today believe in UFOs than they believe that Social Security will be there for them when they retire. Every time I have a town meeting someone gets up

and says: We have to change Social Security; it will not be there for me when I retire.

I say: Let me ask you this. Do you believe the U.S. Government, the United States of America will still exist when you retire? Of course, everybody says yes. Of course, the United States of America is going to exist for a long time.

Well, then, I say your Social Security is going to be secure, too, because it is backed by the full faith and credit of the U.S. Government. The United States has never defaulted on a bond, and we never will.

So to those who say that somehow Social Security will not be there, the Government is going to default and not pay the bonds, right now China is buying U.S. bonds, loaning us money every year to finance our deficit. Are we telling them, Hey, guess what, China, those bonds may not be any good; we may default on those?

Do we tell the private sector that is buying a lot of Government bonds for their portfolios, Hey, guess what, it might not be there? The reason Government bonds are so good is because it is backed by the U.S. Government. That is why Social Security will be there. That is the truth that those who want to privatize Social Security are not telling us.

Does Social Security face a challenge nearly half a century from now? Yes, it does. According to the Congressional Budget Office, in the year 2052 the huge surpluses in the Social Security trust fund will have been used up. But payroll taxes will continue to roll in, allowing about 73 percent of scheduled benefits to be paid indefinitely. Clearly, the 27-percent shortfall will be a challenge. That is about 45 to 47 years from now, and for that reason I welcome the current discussion of ways to address the current challenge. Now, since I have been in Congress—and that has been now 30 years—we have adjusted Social Security twice. Since 1935, we have adjusted it several times. With changing times and circumstances, as we look ahead we make changes, and we are going to have to make some changes now, but not as drastic as some people are saying.

I am interested in hearing the details of the President's plan in his State of the Union speech on Wednesday. Reportedly, at least from what I read in the papers, he will propose a partial privatization of Social Security. Guess how it is going to be financed. By up to \$2 trillion in new borrowing over the next decade. Where are we going to borrow that money? We will have to float bonds.

Who is going to buy the bonds? Well, right now the biggest buyer of our bonds is China and Japan. Are we going to tell them we may default on those bonds? No. We are telling them that those bonds are good.

According to other reports, the President plans to follow the advice of his 2001 Commission on Privatization,

which recommended that future Social Security benefits be cut by 40 to 50 percent. Well, with good reason Senators from both parties have been very skeptical and critical of these approaches. As even conservatives acknowledge, private accounts have nothing to do with ensuring the long-term financial health of Social Security. One person even described private accounts as "a solution in search of a problem."

What is more, the proposal to cut benefits by 40 to 50 percent is not just Draconian, it is totally unnecessary. It feeds the suspicion that the President's real aim is not to save Social Security but to drastically shrink it as the first step toward eventually ending it, like Grover Norquist wants to do.

I will focus the remainder of my remarks today on one part of Social Security that is not being talked about. I have one big overriding concern. I am concerned that those who want to privatize Social Security have almost totally ignored the fate of some 6.2 million Americans with disabilities, people who in many cases desperately depend on Social Security disability benefits.

President Bush says he has no current plans to cut disability benefits, but unfortunately the President seems not to understand that in our Social Security system both the retirement and disability programs are closely linked.

They use the same formula for determining benefits. In an interview with *The Washington Post* published on January 16, the President acknowledged that:

Frankly, our discussions in terms of reform have not centered on the survivor/disability aspect of Social Security.

Meanwhile, the President's Commission on Social Security devoted a mere two pages out of its 256-page report on the fate of people with disabilities. Many advocates of privatization simply assume that disability benefits will be treated the same as retirement benefits. Certainly this was the working assumption of the President's Commission.

The Associated Press reported on January 18 that in the Commission report, disability benefits get reduced along with retiree benefits, in some cases up to 46 percent. The cuts were used to make the plan's finances add up in a report.

Disability benefits get reduced in some cases up to 46 percent. Let me quote from the Privatization Commission's report, page 149, if anyone is looking it up:

In the absence of fully developed proposals, the calculations carried out for the Commission and included in the report assume that defined benefits will be changed in similar ways for [both retirement and disability] programs.

The Commission says it is not necessarily recommending this, but the proof is in the numbers. All of the Commission's calculations assume that disability benefits will be cut the same

as retirement benefits. Without those cuts, the Commission's numbers simply do not add up.

There is at least one other proposal on the table for dealing with the 6.2 million Americans who now receive disability benefits. Some advocates of privatization have suggested that these people be thrown into the Supplemental Security Income Program, SSI. The callousness of these proposals is deeply disturbing.

I will state what ought to be obvious to Senators on both sides of this discussion. It is outrageous to treat Americans with disabilities as a mere afterthought in this momentous debate. It is unacceptable to leave them as collateral damage when the smoke clears and the casualties are counted.

Here is the crux of the problem: The President's Commission has proposed dramatic cuts in Social Security by calculating future benefits based on changes in the Consumer Price Index. This approach poses huge risks to recipients of Social Security disability benefits and also to widows and orphans who receive survivor benefits. Bear in mind that Social Security currently uses basically the same benefit formula for all categories of beneficiaries. So if retirement benefits are slashed by nearly half, disability benefits will also be slashed in the same across-the-board fashion with catastrophic consequences. Everyone appreciates that the Social Security payroll tax purchases a very good defined benefit upon retirement. What is not fully appreciated is that the payroll tax also purchases an excellent disability insurance policy, one that would be difficult, if not impossible, to purchase on the private market.

I am going to repeat that. What is not appreciated is that our payroll taxes buy an excellent disability insurance policy, which would be difficult, if not impossible, for you to buy in the private market.

Here are the facts. For the average wage earner with a family, Social Security benefits are equivalent to a \$322,000 life insurance policy or a \$233,000 disability insurance policy. I had my staff look into how much it would cost to replace those benefits in the private market. The cost of the life insurance alone could be substantial. For instance, the cost of a modest \$100,000 term life insurance policy—that is just a term policy—varies from \$140 a year for a healthy 25-year-old to \$3,815 a year for a not-so-healthy 45-year-old.

The more shocking news is that you cannot accurately price a policy that would make up for disability. The vast majority of currently available disability policies are group policies. Right now, the only people who buy personal disability insurance are members of small, self-selected groups of people who are at a lower risk of becoming disabled, and these group policies are not stand-alone policies; they are supplemental policies. They just

replace a percentage of income beyond what Social Security disability pays. So any change that lowers Social Security disability payments would actually raise the price of private disability insurance, because there would be a larger gap to make up between what people get from Social Security and a minimum replacement level.

More to the point, this kind of disability policy would not be available to just anyone. For instance, according to Patricia Owen, the former Associate Commissioner of the Social Security Administration:

Private insurance generally will not cover the blue-collar occupations. And long-term disability insurance for workers is the least offered. With Social Security disability insurance, all are covered. I would guess that the price of private long-term disability insurance would be at least 4 to 5 times higher than the percent of FICA that goes to disability insurance.

Young people better start thinking about this. They better start thinking about what this privatization means in terms of disability.

Any one of us on the floor today, anyone watching us—an accident could happen tomorrow and you could be disabled. I am concerned that in the rush to privatize Social Security we are failing to consider unintended consequences. Americans with disabilities are at risk under the privatization plans now being discussed. I think what we have here is a crisis of mass destruction. Before we went into Iraq we had the weapons of mass destruction. We found out they didn't exist. The President now says there is a crisis in Social Security that justifies slashing benefits by up to 50 percent, that justifies borrowing up to \$2 trillion to partially privatize Social Security.

Just as there were no weapons of mass destruction in Iraq, there is no crisis in Social Security. But if we go down this path of privatizing Social Security, cutting benefits, making it harder to get disability coverage, we will have mass destruction all right, we will have mass destruction of the American family, our American family, pulling together, helping each other in time of need by putting us all in this great big pool called Social Security insurance.

If the President and Mr. Norquist and those privatizers get their way, we will have mass destruction all right, here in our country—to our way of life, to our American family. We will have mass destruction to a future that people can look forward to knowing that if, they become disabled, they are going to have a safety net to look forward to. If the major breadwinner in the family, he or she, gets killed, dies unexpectedly, that the survivors will have a safety net to get them through school; looking forward to a future when you retire you will have some golden years and you will know that your future retirement years don't depend on whether the stock market goes up or the stock market goes down, that it only depends on one thing, the survival of

the United States of America. That is what Social Security is.

I can tell you that in recent weeks my office has been flooded with letters and e-mails from my fellow Iowans who are deeply worried about the reports they are reading. They read about the President's 2001 privatization commission. Many of them know that the calculations assume disability benefits will be slashed. They have heard the proposals that we will just take people with disabilities and put them into SSI. This is deeply disturbing for people with disabilities who rely on Social Security, not just for income but for their dignity.

Social Security disability insurance has been a lifesaver for countless Americans. I think of Steven Cook, a former truckdriver from Iowa City, IA. After a lifetime of working hard, playing by the rules, he found himself unemployed, sleeping in his car, and diagnosed with renal failure. After qualifying for Social Security disability insurance and corollary health benefits, he was able to receive a kidney transplant and begin to put his life back together.

I don't want to add to the worries and fears of people with disabilities, people such as Steven Cook who rely on Social Security, but we have an obligation to raise these issues now, to discuss them, and to find out what those unintended consequences might be of the privatization of Social Security. As I said, the calculations and projections of the President's Commission on Privatization assume that disability benefits will be cut along with retirement benefits. The Commission recommended that "the President address the disability insurance program through a separate policy development process."

That recommendation was made 3 full years ago, but, to my knowledge, there has been no such effort to develop any policy to safeguard the disability insurance program. In the absence of any reassurance from the administration, Americans with disabilities—widows and their survivors and orphans—have been left with the worst: Their benefits are going to be slashed in a draconian fashion. This is not compassion, and it is not acceptable.

I have come to the Senate floor today to raise these profound issues. It is time to talk about the fate of millions of Americans with disabilities who rely on Social Security benefits. Is the administration developing a plan to protect these people? Does the administration intend to take its cue from the Privatization Commission and propose steep cuts in disability benefits? Americans need answers. More than 6 million Americans who rely on disability benefits need answers, as we all do. Any one of us could become disabled and face a dire need of this safety net.

I urge the President to consider this issue. If the plan is to privatize Social Security on the backs of our most vulnerable people, that is profoundly a

moral mistake. Such a plan I hope will be unacceptable to Members of this body. I urge the President and his advisers to give very careful consideration to this issue.

Yes, we need to address long-term challenges to Social Security. However, Social Security is sound. It is as sound as the United States of America. Will it need changes 50 years from now? Yes. Minor changes can fix it. Does it need to be privatized? No. Do we need to protect the social insurance program for people with disabilities or for people like you and me who are not right now disabled but may be tomorrow? The answer is yes. We can only do it if we have one national social insurance program. It has served us well.

Not all old things are bad. The older I get, the more I think about that. Not all old things are bad. Sometimes I see people wanting to change this or change that. For what reason? They say: Well, it is old. So what? The Ten Commandments are pretty old. I don't think they need to be changed.

Social Security insurance has served us well. It will serve these young people here today well. It will serve all young Americans well as long as we think about it in terms of the American family. We are all in this together. We will all go our separate ways and do our separate things in life, but if trouble falls, if one person becomes disabled, if one person dies and the widow or widower and the kids need help, we are there. We are there as part of a family. You will not get that if you privatize Social Security.

We will fix the long term balance sheet on Social Security. But we should always keep in mind that Social Security is as strong and as sound as the United States of America. If you do not believe in America, you don't believe in Social Security. If you do not believe in the future of our country, you don't believe in the future of Social Security. But if you believe in America and if you believe in the future of our country, you believe we can come together to truly protect Social Security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak in morning business for such time as I may require.

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

Mr. ALEXANDER. Thank you, Mr. President.

#### ELECTIONS IN IRAQ

Mr. ALEXANDER. Mr. President, some of my colleagues are suggesting that as a result of yesterday's election in Iraq, the United States needs an exit strategy, that we should begin to withdraw troops, and that we should set a timetable for bringing the rest of our military men and women home. That is a very appealing thought.

I can think of about 3,000 families in Tennessee of the 278th Cavalry of the National Guard whose husbands and wives and sons and daughters have interrupted their lives for up to 18 months. And they are now in northern Iraq. Their families would like to have them home. I can think of families around Fort Campbell and Nashville. They would like to have their loved ones home. I think of the \$80 billion the President is going to ask us to spend, and I can think of 80 billion ways to spend it on education and improving our competitiveness. It is a very appealing thought—to bring the troops home.

But we don't need an exit strategy in Iraq. The United States needs a success strategy in Iraq. If we are to succeed in Iraq, I am afraid that means those troops are likely to have to stay there for a while longer.

Yesterday, the Iraqis did for themselves what we haven't been able to do for them in 22 months: they isolated the terrorists. The count was about 7 million or 8 million to 5,000 or 10,000—voting Iraqis versus terrorists.

In October of 2003, Secretary Donald Rumsfeld wrote a memorandum which was widely circulated around Washington. He said:

It is pretty clear that the coalition can win in Afghanistan and Iraq in one way or another, but it will be a long, hard slog.

Concerning the overall war on terror, Secretary Rumsfeld went on to ask:

Is our current situation such that "the harder we work the behinder we get?"

The Rumsfeld memorandum leaked, and some accused the Secretary of not having all the answers. I am glad we had a Secretary who is willing to ask the questions that he didn't know the answers to. He was worried that our actions in Iraq and being successful in the war were, in the postwar time, inflaming Arab opinion in such a way that we were creating more terrorists than we were destroying.

I know a lot of wise people around Washington, DC, who have been thinking about Secretary Rumsfeld's question since October of 2003. I have yet to hear one of them come up with a very good answer to his question.

How do we in the postwar conflict keep from creating more terrorists than we are destroying? The answers to the question come from all sides.

We in Congress have discussed, for example, more public relations, more television, more radio programming, more cultural exchanges. Those are all good ideas. They are important parts of effective public diplomacy. I hope we do them. But yesterday we witnessed a much better answer to Secretary Rumsfeld's question: elections; elections giving people a voice and a stake in the future of their own country. Those elections yesterday isolated the terrorists. That was the most important lesson of yesterday. It was 7 million or 8 million for democracy and 5,000 or 10,000 for the terrorists. It wasn't the Americans who were in the

7 or 8 million; it was the Iraqis. It was the Iraqis.

We discovered that we know how to give people their freedom. We have a military strong enough to do that virtually anywhere in the world. We did it in Iraq, and with stunning success, in 3 weeks toppling Saddam Hussein's government. We can give most countries their freedom in a few weeks or a few months, but we are being reminded in Iraq that building a democracy takes a long time. And people have to build a democracy for themselves. We can't do it for them.

We should know that from our own history. The Declaration of Independence was written in 1776. Our Constitution was signed in 1787. But women didn't receive the right to vote in America until 1920. It took 133 years. Blacks were enslaved and counted as three-fifths of a person by our Constitution until our Civil War, and they didn't receive full voting rights until the Voting Rights Act of 1965, 180 years after the signing of our Constitution. Even today, the United States of America is still a work in progress. We are the oldest democracy in the world. There is no such thing as an instant democracy. We, of all democracies, should understand that.

We also could learn some lessons from our role in nation building in the world. We spent 8 years in Germany and Japan. We are still in Bosnia and Kosovo.

According to this book, "America's Role in Nation Building: From Germany to Iraq," a RAND study by Ambassador James Dobbins and others, "There is no quick route to nation building. Five years seems to be the minimum required to enforce an enduring transition to democracy."

This is a book about nation building in Germany to Afghanistan with lessons for Iraq. We have plenty of experience in nation building since World War II, and the lessons from those experiences are documented in this book and many other places: Any time we decide to engage in nation building, it is going to take more troops, more time, more money, and certainly more sacrifice than we at first thought when we invaded Iraq.

That doesn't mean we should reconsider our presence in Iraq. We are there. We need to finish what we started. We need to get the job done. It does suggest that in the future we should think carefully about the number of troops, the amount of time, the amount of money, and the amount of sacrifice it takes when we engage in nation building.

I believe the Bush administration as well as the Congress has some responsibilities going forward. First, as far as the administration goes, I would like to see the administration be more specific about its success strategy in Iraq. I mentioned last week in the Senate the Washington Post op-ed by two former Secretaries of State, Henry Kissinger and George Shultz. They argue,

eloquently and in detail, that we should not set, as some of my colleagues have suggested, a specific timetable for pulling out our troops. We do not need an exit strategy. But they went further than the administration has gone so far in outlining the framework for a success strategy. These are the kinds of questions they ask in their framework.

Are we waging "one war" in which political and military efforts are mutually reinforcing? Are the institutions we are helping to build sufficiently coordinated? Is our strategic goal to achieve complete security in at least some key towns and major communications routes as opposed to 100 percent in every town and 100 percent security on every communication route? Do we have a policy for eliminating sanctuaries in neighboring territories, such as Syria and Iran? Are we designing a policy that could produce results for the people and prevent civil strife for control of the state and its oil revenue? Are we maintaining public support of the United States? Are we gaining international understanding?

They went on to conclude:

An exit strategy based on performance, not artificial time limits, will judge progress by the ability to produce positive answers to these questions.

That is the administration's responsibility at this stage. We have a new Secretary. We have a new election. We are being asked to appropriate 80 billion new dollars. I would like to hear a more specific success strategy.

We have our own responsibilities in the Congress. Our responsibility, now that we have authorized this war—we authorized it with 77 votes in this Chamber. Now that we have authorized this war, we have the responsibility to have the stomach to see it through to the end and not begin talking about premature exit strategies before we finish what we started.

The focus should not be on what day in July or August we will get out. Instead, we should be asking, for example, what are we willing to do to help provide the security needed so that elections in October and December are successful?

Yesterday's election was the first election. It was the first strong signal from the Iraqis that by a vote of 7 or 8 million to 5,000 or 10,000, they prefer democracy to terrorism. It did something that we could not do ourselves in 22 months: It isolated the terrorists in public opinion. There will be another election in October. There will be another election in December. And we should be talking about what we can do to help those elections be successful. Let's send another message isolating terrorists—not the United States, but the Iraqis. We will give them that opportunity two more times.

What can we do to train Iraqis to take over their own defense and to establish a constitutional government? What can we do to encourage Iraqi neighbors to allow a success strategy

to continue? Those are the questions we should be asking, and the answers to those questions will produce a success strategy.

At some point, one thing we can do to isolate terrorists in the Middle East is to leave Iraq. Then Iraqis are defending Iraq. All of us want that as soon as possible. Iraqis want that as soon as possible. But to abandon Iraq before we have implemented a success strategy is abandoning a country we have led to risk its lives in order to vote, and abandoning the brave Americans and those from other countries who have fought, bled, and died to give Iraqis their freedom and to give them an opportunity to govern themselves.

In 1994, I met a man named Larry Joyce in Chicago. He worked for the American Heart Association. Larry Joyce had been in Vietnam. He was about my age. He sought me out because he wanted anyone who might be in public life to learn the lessons he and his family had learned in Somalia. Larry Joyce's son, Casey Joyce, had been killed in Somalia. The lesson Larry Joyce wanted me to know and wanted every Member of this Senate to know and every policymaker to know was this: Before we engage in a military mission, we should do three things: One, we should have a specific mission; two, we should have more than sufficient force to complete the job; and he said, three, most importantly, we should have the stomach to see the mission through all the way to the end.

His greatest complaint about the American Government in Somalia was not the mission, not the force, but that we did not have the stomach to see all the way through to the end the mission in which his son was killed.

Larry Joyce himself has now died, but I remember that conversation. I think of his son. When I think about this war and committing American men and women to Iraq or any other place in the world, I think about seeing that mission all the way through to the end.

That is why I react badly to the talk of my colleagues who suggest an exit strategy based on some artificial date. Leaving Iraq prematurely would undermine every objective we have in the war on terror and in the Middle East. I am disappointed to hear talk of an exit approach. I would like to hear more in this Chamber and more from the administration and more in this country about a success strategy in Iraq.

Yesterday's election was a thrilling event. For the first time in 22 months it answered Secretary Rumsfeld's question of October 2003, How do we isolate the terrorists? If we do not do it, the Iraqi people do it, 7 or 8 million of them, versus 5,000 to 10,000 terrorists. They isolated the terrorists.

We should not be talking about leaving Iraq before we are finished. We should be talking today about those October elections, about those December elections, and what we can do in

our country and in Iraq to help the Iraqis have the opportunity to build a constitutional government and to be in a position in October and December to once again send a message to the world that they prefer democracy to terrorism and that they, the Iraqis, are isolating the terrorists by a vote of millions of Iraqis to a few thousand terrorists.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, yesterday freedom took a giant step forward.

History will rank January 30, 2005, alongside November 9, 1989, the day the Berlin Wall fell, as a day when man's innate desire to be free broke the shackles of tyranny.

Millions of Iraqis stood up to the terrorists and told them: We reject your credo of violence. We reject your claim that Iraq cannot join the democratic family of nations. We reject your belief that Iraqis deserve nothing more than to live in fear of oppression.

One Iraqi voter, a businessman named Samir Sabih, put it better than any of us could. Of yesterday he said:

Fear has no place in our hearts anymore. We became free.

The Iraqi elections for the National Assembly must be heralded as a major success. Turnout has been reported as being anywhere from 60 to 70 percent, defying all expectations. Thanks to the dedication and bravery of our troops, and the Iraqi police that we have trained, there was much less violence than expected. We were all moved by the courage of so many ordinary Iraqi citizens, each one risking their life to proudly display a purple ink-stained finger.

While we do not yet know the results of the election, we can name the winners—the people of Iraq—for enthusiastically embracing democracy; the nations of the Middle East, that can now look to Iraq as a model; and the people of every country, who now live in a world more favored toward freedom.

Some cynics have missed the point of this election. For instance, some say the vote is illegitimate if not enough Sunnis chose to participate. But by all reports, the Shiite majority will not let this stop Sunnis from having a voice. There will be a place for all religions and ethnicities in the government. Interim Prime Minister Iyad Allawi, himself a Shiite, has said:

Let us work together toward a bright future—Sunnis, Shiites, Muslims and Christians, Arabs, Kurds and Turkmen.

I also heard a news reporter ask yesterday whether the election results

were good for President Bush. In case this reporter missed it, President Bush was not on the ballot. Yesterday's historic achievement was not about which party can collect political points. It was about the march of freedom.

There is still a lot of hard work ahead before Iraq becomes a stable democracy. America must stay committed. The Iraqis are counting on us to help them in their quest for freedom, and we cannot, and we will not, let them down. We must do what it takes for our security's sake, so that Iraq never again becomes a cauldron of terrorism.

Many Americans and Iraqis risked everything to help realize the first free vote in Iraq since 1953. Some gave their lives. We should offer our thanks and our prayers to those who valiantly sacrificed. We can honor their deeds by completing our task in Iraq.

Amidst the joy and celebrations yesterday, one Iraqi woman actually gave birth at her polling station. She gave birth at her polling station. Despite her pregnancy, she was determined that nothing would stop her from casting her ballot. She named the child after the word "election" in her native language.

Mindful of the hard work still ahead, I hope and believe this baby will grow up never knowing tyranny and oppression, never living under totalitarian fear, never seeing a family member spirited away to be murdered.

I hope and believe this child will grow up in a free society, with the power to make his own destiny. Let's finish the job and ensure that is so.

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. MCCONNELL. Mr. 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

### EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 7, the nomination of Samuel Bodman to be Secretary of Energy, that the nomination be confirmed, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate then resume legislative session. Finally, I ask that any statements relating to the nomination be printed in the RECORD.

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

The nomination considered and confirmed is as follows:

#### DEPARTMENT OF ENERGY

Samuel W. Bodman, of Massachusetts, to be Secretary of Energy.



## NOMINATION OF DR. SAMUEL BODMAN

Mr. DURBIN. Mr. President, I rise to share some brief comments concerning the nomination of a fellow Illinoisan, Dr. Samuel Bodman, for Secretary of the United States Department of Energy.

Last week I had the opportunity to meet Secretary-designate Bodman. I learned he was born in Wheaton, IL, his mother was raised in Coffeen and his father grew up in Bement, IL, where main street is actually named Bodman Street.

I expressed to Secretary-designate Bodman a few of my concerns about national energy policy. I stressed my belief that one of our most urgent national energy priorities is increasing fuel efficiency standards. This is a critical issue and one that has been visibly absent from the administration's national energy policy. How can we claim to be serious about reducing America's dangerous dependence on foreign oil if we don't get serious about encouraging greater fuel efficiency?

We hear the same excuses all the time for failing to act: Cars will be unsafe. The technology isn't available. The truth is, the technology is available and the higher fuel efficient cars are on the road. The majority of them, however, are Japanese.

I'm lucky. Fortunately, after 6 months of waiting, we recently purchased a Ford Escape hybrid. This car achieves anywhere from 31 to 36 miles per gallon of gasoline. Clearly, the technology is there.

What is needed, I stress again, is comprehensive energy policy that places greater emphasis on conserving energy and promoting fuel efficiency rather than simply drilling more oil wells in ever more fragile wilderness areas.

I also expressed to Dr. Bodman my strong support for the energy department's research and development programs, for advancing energy technology, and for helping to maintain our Nation's leadership in advanced science.

One project I support strongly is the DOE Science Advisory Committee's highest priority recommendation, the construction of a rare isotope accelerator. This project is critically important in maintaining our Nation's position as a leader in nuclear research.

The Department of Energy is in the process now of finalizing its decision on where to place the rare isotope accelerator. Among the contenders is Argonne National Laboratory at the University of Chicago.

I am working closely with my colleagues, Speaker DENNIS HASTERT and Congresswoman JUDY BIGGERT to try to bring the rare isotope accelerator to Argonne.

First, Argonne has already built a major isotope accelerator and is the only facility in America with the experience and management already in place to get this project up and running.

Second, Argonne has the necessary infrastructure to support the project. Argonne's existing infrastructure would save the Federal Government approximately \$100 million in project costs. At a time of tight budgets and spending constraints, this alone is an appealing benefit.

Finally, Argonne is located just 25 miles southwest of the Chicago Loop, close to both Midway and O'Hare International Airport, making it readily accessible to researchers around the world.

The rare isotope accelerator will allow researchers to delve into the origin of elements that make up the world. The research at this facility will provide us the opportunity to advance the application of nuclear medicine and enhance our understanding of environmental science and the biology of the Earth. This project would be an extraordinary asset to Illinois. With an initial investment of \$1 billion in Illinois's economy, the rare isotope accelerator would bring 1,750 permanent jobs and 16,000 temporary construction jobs to Illinois. It would make Illinois a hub for scientific research, discovery and collaboration.

I encourage Secretary-designate Bodman to give a good look to Argonne's application. I believe strongly that he will find Argonne's expertise, success and cost-saving efforts make it the best site for this facility.

Finally, I appreciated the opportunity to discuss with Dr. Bodman my interest and strong support for the Energy Department's FutureGen project.

In the 1970's there were 71 operating coal mines in Illinois. Today, there are only 21 active mines. Over the past 30 years the economy in Southern Illinois has slowly collapsed, leaving thousands of people unemployed.

The FutureGen project will advance energy production into the future by creating an integrated sequestration and hydrogen production zero-emission fossil fuel plant.

Southern Illinois is the perfect location for such a facility. Illinois contains more than 25 percent of the Nation's total recoverable bituminous coal reserves, and it also contains deep saline aquifers, available for the sequestration of carbon dioxide. While creating a use for the high sulfur content coal in the State, the FutureGen plant would help revitalize the Southern Illinois coal industry.

I am pleased to support Dr. Bodman to be America's next Energy Secretary and I look forward to working with him and the Illinois delegation to bring this project to our State and to decrease America's dependence on foreign oil.

Ms. CANTWELL. Mr. President, today, the Senate is considering the nomination of Dr. Samuel Bodman to be the next Secretary of Energy. I understand that Dr. Bodman is likely to be confirmed. Though I will support his nomination, I want to review my understanding of Dr. Bodman's commit-

ment to several issues that are critical to our Nation and specifically to my State of Washington, so that he can begin his tenure with a clear understanding of this Senator's expectations.

During his confirmation process, I had the opportunity to meet with Dr. Bodman personally and to engage him and seek his views on the policies of the Department of Energy. Among the issues I raised were several of critical importance to the State of Washington, such as maintaining the Federal Government's commitment to clean up the Hanford Nuclear Reservation, considering carefully any changes to Federal policies regarding the Bonneville Power Administration, BPA, and advancing the Federal role in research and development at institutions such as the Pacific Northwest National Laboratory. On some of these issues, Dr. Bodman stated he needs time to review them early in his tenure at DOE, and has committed to me to do so. In other cases, he was able to make a more explicit commitment on the issue's merits, such as the enforcement of the Triparty Agreement on cleanup of the Hanford Nuclear reservation.

From our interactions, Dr. Bodman has begun to develop an appreciation for just how large DOE's "footprint" is in the State of Washington and how much is at stake for our economy and environment when it comes to the many policy decisions he will make when confirmed as Secretary of Energy. It is a job that comes with a considerable number of challenges—but also incredible opportunity. Putting in place a real, forward-looking energy policy for the 21st century is not only essential for this Nation's economic security, it is my belief that it will fuel the next wave of innovation. It is critical for this country to take the technology lead in the energy sector. Otherwise, we will find ourselves in 10 to 20 years in exactly the same position we do today as it relates to our dependence on foreign oil—we will be importing the next generation of energy technology. Instead, we need to seize the opportunity before us and recognize that it is the key to securing our Nation's long-term energy independence.

As I have expressed to Dr. Bodman, the Western electricity market meltdown of 2000-2001 has had a profound impact on my State's economy, the pocketbooks and economic well-being of my constituents. Moreover, the Western crisis has brought to the forefront a number of very important policy questions about the kind of behavior that will be tolerated in our Nation's electricity markets, as the Federal Energy Regulatory Commission, FERC has continued to pursue its "restructuring" agenda.

As the Secretary of Energy, Dr. Bodman will have a very important, leading role—defined in the 1977 Department of Energy Organization Act—in guiding overall electric regulatory policy.



The incoming DOE Secretary will need to provide strong leadership and condemn the types of schemes used by Enron traders—manipulation tactics with infamous nicknames like Get Shorty, Death Star, and Ricochet.

These are more than just “theoretical” concerns for me and my constituents. Not only are Western ratepayers trying to recover some small fraction of the money they lost to Enron as a result of its unscrupulous trading practices, they are trying to avoid paying even more. Right now, Enron is claiming utilities in Washington State and Nevada alone owe about a half billion dollars more—for power Enron never even delivered. You can understand just how outrageous this seems to my constituents, who are already struggling to pay their power bills.

I am pleased that Dr. Bodman provided assurances that market manipulation cannot be tolerated and pledged to enforce applicable Federal statutes. We need to send a strong and unanimous message that these practices will not be tolerated in our Nation's electricity markets.

Unfortunately, justice delayed is justice denied for Enron's victims. It has literally been years now, in which the ratepayers of my State—who have already suffered enough—have been waiting for the other shoe to drop. I look forward to working with Dr. Bodman in righting past wrongs done to consumers—including those in the State of Washington—and putting in place safeguards to prevent future victimization of electric ratepayers.

As I referenced earlier in my remarks, I have emphasized to Dr. Bodman the importance of Hanford cleanup to the residents of Washington and the Pacific Northwest as a whole. It has been my experience that achieving our mutual goal of an effective and efficient Hanford cleanup suffers when relationships between the States and DOE, the congressional delegations and other stakeholders are damaged by the bad faith actions of one of the parties. Again, I applaud Dr. Bodman for publicly committing that the continued cleanup at Hanford will be done under the framework of the Triparty Agreement, TPA.

I have also asked Dr. Bodman, and he has agreed, to consult with me and other members of the Washington congressional delegation on any administration or legislative proposals regarding tank waste stored at the Hanford Nuclear Reservation. We will not tolerate the same situation that happened last year—when DOE-authored language related to the reclassification of high-level nuclear waste was inserted into the fiscal year 2005 Defense authorization bill. This negotiation that was done behind closed doors, in a committee that is not the rightful forum for debate on the issue of high-level nuclear waste and how it should be treated and disposed of. This legislative end run was viewed by me and the senior

Senator from Washington, Mrs. MURRAY, as well as the State of Washington and many of our constituents, as an ill-considered attempt to take short cuts at Hanford. I hope Dr. Bodman's commitment to consult with me will further his understanding of this issue and ultimately lead to an agreement that these bad faith maneuvers will not be continued by the Department of Energy under his leadership.

Washington is blessed with an incredible system of clean, renewable, and cost-effective hydropower. The pitfalls of being 80-percent dependent on one particular source for electric generation—subject to the whims of Mother Nature—have been made all too apparent in the past few years.

I look forward to ensuring that the Department of Energy and the policies that the incoming Secretary supports will ensure economic stability and growth for Washington residents specifically and throughout the Pacific Northwest. In order to meet these goals, the Department of Energy should be engaged in four broad activities. They include providing some regulatory certainty to the electric industry, at the same time we set some forward-thinking, yet achievable, goals for diversifying our energy sources; rationalizing our energy tax policy, and, in tight budgetary times, target it to support emerging technologies; we need to promote a vigorous research and development effort; and finally we need to make sure we are investing in the workforce, the human infrastructure, which is critical if we are going to lead in the global energy economy.

I believe that we are using unique Federal resources towards contributing greatly to addressing some of these important challenges. Among its diverse missions within the Department of Energy, the Pacific Northwest National Lab has been a national leader in the development of “smart-grid” R&D. This “smart-grid” technology, due to be deployed throughout the Pacific Northwest, will allow a reliable response to energy demand and the propagation of a more distributive energy infrastructure. These types of programs allow us to make our energy grid more reliable, help train and grow our energy workforce for the 21st century, and sustain and grow our economy. These programs should serve as examples of progressive investment of Federal resources yielding incredible results. I look forward to working with Dr. Bodman to ensuring the future growth of these programs.

Dr. Bodman also will be responsible for furthering the investments that incentivize the long-term production of alternative energy resources, including wind and biomass. I know that many of these have strong bipartisan support in the Congress and can play a critical role in sustainable economic development, especially in rural parts of our Nation, like most of the Eastern part of Washington State. Again, it is investments like these that can ensure a

more reliable and distributive grid that will ultimately lessen our long term reliance on fossil fuels.

Finally, I look forward to educating Dr. Bodman on the importance of the long-term stability of the Bonneville Power Administration. The incoming Secretary should note that decisions about the future operation of the BPA system, including any decision to join a regional transmission organization, or RTO, should be left to stakeholders in the Pacific Northwest.

It is critical that Bonneville be allowed to continue making important investments in upgrading its transmission infrastructure. Last year's budget called for legislation that would have effectively ended critical transmission upgrades already underway in the Pacific Northwest by effectively exhausting BPA's borrowing authority in 2008. I hope that Dr. Bodman's further education on these matters will yield his commitment to ensure that these transmission upgrades can be completed—a key piece in making our energy system more reliable.

Again, I am supporting Dr. Bodman's nomination. As the next Secretary of Energy, he will be our Nation's chief energy policymaker. I look forward to further educating Dr. Bodman on these issues that are so important to my State and working with him to address these important challenges. I ask unanimous consent that a copy of Dr. Bodman's responses to my questions be printed in the RECORD.

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

#### QUESTIONS FROM SENATOR CANTWELL

Question No. 180: When we met, we informally discussed the challenges the Northwest faces with respect to electricity rates and our efforts to deal with the aftermath of the Western energy crisis of 2000–2001. I know you recognize the sad fact that the Northwest is far from out of the woods on the rates crisis.

Obviously, the Western market meltdown has had a profound impact on my state's economy, the pocketbooks and economic well-being of my constituents—too many of whom have had to make the choice between keeping their heat and lights on and buying food, paying rent, and purchasing prescription drugs. In some parts of Washington State, utility disconnection rates have risen more than 40 percent.

People just can't pay their utility bills. So you can imagine, what we've seen and heard since the height of the crisis—as we've learned about the market manipulation and fraud that took place in the Western market, while Enron energy traders laughed about the plight of “Grandma Millie”—has added tremendous insult to substantial economic injury.

Moreover, the Western crisis has brought to the forefront a number of very important policy questions about the kind of behavior that will be tolerated in our nation's electricity markets, as the Federal Energy Regulatory Commission (FERC) has continued to pursue its “restructuring” agenda.

As the Secretary of Energy, you would have a very important, leading role-defined in the 1977 Department of Energy Organization Act—in guiding overall electric regulatory policy.

As such, before I get into some of the specifics, I want to make sure we are on the same page when it comes to these broader principles and policies:

First, do you agree that the types of schemes used by Enron traders—manipulation tactics with famous nicknames like Get Shorty, Death Star and Ricochet, many of which involved the falsification of data and have been deemed illegal by the Federal Energy Regulatory Commission (FERC)—are practices that must not be tolerated in our nation's electricity markets?

Answer: Senator Cantwell, illegal market manipulation certainly cannot be tolerated, and we should vigorously enforce the relevant laws.

Question No. 181: Do you also agree that, as a matter of common-sense policy, the victims of these schemes should not have to pay the inflated power prices resulting from market manipulation?

Answer: We must take appropriate action to protect consumers against the effects of illegal market manipulation.

Question No. 182: Do you also agree that this principle is even more important in instances in which the company perpetrating these schemes has done so while providing false information to federal regulators, making it impossible for those regulators to ensure markets are functioning properly?

Answer: Any form of market manipulation, including providing false information to regulators as you have described, is intolerable and we should vigorously enforce the relevant laws. As you know, FERC and/or the courts have the authority to review such cases and make appropriate judgments.

Question No. 183: I particularly want to ask you your views about instances where the company perpetrating these schemes has frustrated the efforts of regulators and parties trying to find the truth about the depth of its deceptions, failing to turn over relevant evidence in a timely fashion. Do you believe that, as a matter of national energy policy, a company like that should still be allowed to reap the profits of its market manipulation schemes?

Answer: As I am not aware of all the details of current allegations, I cannot comment at this time but I would reassert that I agree that regulatory authorities should act appropriately to protect consumers against unscrupulous or illegal conduct.

Question No. 184: Sadly, the theoretical situation I outlined in my first question is not theoretical at all. It's the situation that has been unfolding at FERC for the past few years. Not only are Western parties trying to recover some small fraction of the money they lost to Enron as a result of its unscrupulous trading practices, they are trying to avoid paying even more. Right now, Enron is claiming utilities in Washington state and Nevada alone owe about a half billion dollars more—for power Enron never even delivered. You can understand just how outrageous this seems to my constituents, who are already struggling to pay their power bills.

Unfortunately, justice delayed is justice denied for Enron's victims. It has literally been years now, in which the ratepayers of my state—who have already suffered enough—have been waiting for the other shoe to drop.

My understanding is that the Secretary of Energy has, under the DOE Organization Act, substantial discretion to intervene in matters pending before the Commission. There is also substantial precedent, as both Secretaries Richardson and Abraham have involved themselves in various ways in matters before FERC. I can understand why. I imagine that any Secretary would have a considerable interest in doing so, in ensuring that regulatory matters are being handled in

a manner consistent with national energy policy. I hope that you agree that what I've outlined above—the scenario in which Enron is allowed to collect money for power never delivered, at outrageous rates resulting from market manipulation—is not in the public interest, and is not the energy policy endorsed by this Administration.

Will you commit to me that, if confirmed as Secretary, you would use your authority and intervene with FERC to prevent ENRON from collecting these so-called "termination payments" which harm Western consumers?

Answer: Senator Cantwell, under section 405 of the DOE Organization Act, the Secretary of Energy has the ability to intervene, as of right, in proceedings before FERC. It is my understanding that there currently are matters pending before FERC, as well as in the courts, relating to Enron, and that some of those matters have been going on for several months or years. If confirmed, I will look into the matter and evaluate whether it would be appropriate for DOE to intervene at this point in those proceedings at FERC.

Question No. 185: In our previous meeting we also had the opportunity to discuss the importance of Hanford cleanup to the people of Washington State and the Pacific Northwest as a whole. It's also my belief that cleaning up the legacy of our defense efforts must be high on our list of national priorities. Cleanup suffers, however, when relationships between the states and DOE, the Congressional delegation and other stakeholders are damaged by the bad faith actions of one of the parties.

I know you are aware of what happened last year, when DOE-authored language was inserted into the Fiscal Year 2005 Defense Authorization bill, behind closed doors, in a Committee that is not the rightful forum for debate on the issue of high-level nuclear waste and how it should be treated and disposed of.

This legislative end-run was viewed by myself and Sen. Murray, as well as the State of Washington and many of our constituents, as an ill-considered attempt to take short-cuts at Hanford.

Will you ensure that the DOE will not attempt a similar legislative end-run around the State of Washington and its Congressional delegation on the issue of high-level waste reclassification, during your tenure as the Secretary of Energy?

Answer: Senator, I appreciated the opportunity to meet with you to hear your views about the Hanford cleanup. I agree with you on the importance of cleaning up the Hanford site in a manner that is protective of human health and the environment. The remediation of liquid radioactive waste stored in aging underground tanks in Washington, Idaho and South Carolina is by far the greatest environmental challenge facing the Department of Energy. It is my understanding that the legislation that was enacted in the last Congress only affects the Department's sites in South Carolina and Idaho. If confirmed, I can assure you that the Department will consult with you and the State of Washington on the cleanup of tank waste.

Question No. 186: Among the biggest challenges at Hanford is the cleanup of 53 million gallons of nuclear waste, contained in 177 tanks within 7 miles of the Columbia River. Already, some 67 tanks have leaked an estimated one million gallons of this waste into the ground.

Retrieving and disposing of the waste in these tanks is one of the most challenging—yet crucial—components of successful Hanford cleanup. The TriParty Agreement lays out the terms of the relationship between the State of Washington and federal government when it comes to cleanup. In the view

of the State of Washington, the agreement vests DOE with the responsibility of retrieving and cleaning up "everything that is technically feasible but no less than 99 percent" of the waste in these tanks.

As Secretary of Energy, will you commit to abide by this requirement of the TriParty Agreement?

Answer: The Department will abide by the terms of the TriParty Agreement.

Question No. 187: As you may know, this Administration's previous budgets have proposed withholding certain cleanup funds until DOE has secured what it views to be favorable outcomes in pending litigation or legislation. This has been widely viewed by many as blackmail, with the purpose of getting the State of Washington to back-down on its cleanup requirements at Hanford.

Will you commit to me that, as Secretary, you will not use these same tactics?

Answer: Senator, I am unaware of the situation you describe. If confirmed, I intend to review the accelerated cleanup program and I would be happy to meet with you and discuss this further.

Question No. 188: More generally, are you committed to working collaboratively with Washington State regulators, the affected communities' and workers' representatives, and the members of the Washington State Congressional delegation to ensure that the cleanup is fully funded and completed as soon as possible—in a manner that ensures the equal protection of the workers, the public, and the environment?

Answer: Senator, I believe that it is important for the Department to work cooperatively with the congressional delegations that represent the DOE sites, as well as with the State regulators, the local community and the workers' representatives. If confirmed, I would expect this practice to be carried out.

Question No. 189: Last year, the National Institute of Occupational Safety and Health (NIOSH) and DOE conducted audits at the Hanford nuclear site on the issue of worker health and safety. Both NIOSH and DOE came up with a long list of recommendations and corrective actions. Many improvements have been made. But I also want to ensure that DOE, as a matter of policy, is doing its job in ensuring adequate health and safety protections on an ongoing basis.

As Secretary, what procedures will you put in place to assure that the Department continues to improve its health and safety protection for workers at sites like Hanford?

Answer: The safety of the Department's workers will be a top priority for me if confirmed. I will review the safety procedures and determine whether additional measures are needed.

Question No. 190: Many major DOE procurement decisions are being challenged and overturned. What will you do to improve the quality, fairness, timeliness, and success of the DOE procurement process?

Answer: Offerors that are not awarded contracts have the right to protest the contract award and other decisions to the Government Accountability Office. It is my understanding that, on a relative basis, very few protests are filed against DOE award decisions. If confirmed, I will ensure that DOE has appropriate standards, systems and quality controls in place to guard against irregularities in the contracting process.

Question No. 191: Another major concern on the part of many of my constituents is whether DOE is implementing the President's directive to increase government procurements with small business.

What will you do to improve and expand DOE procurements that benefit small businesses, particularly those based in the local communities most affected by contamination and which will suffer severe economic

impacts when cleanup is done if local, sustainable businesses are not developed?

Answer: If confirmed, I would fully support the President's policy of increasing government procurements with small businesses.

Question No. 192: Will you support efforts to expedite evaluations of procurement involving local small businesses—particularly since extended delays are especially harmful to small companies that don't have the resources to keep teams mobilized?

Answer: It would be my intent, if confirmed, to review all of the issues surrounding small business procurement and I would be happy at the appropriate time to meet with you to discuss the matter further.

Question No. 193: DOE has made a major commitment to the Hanford Vitrification Project. The Defense Board and others have raised questions about the safety of the design and prospect for cost increases and schedule slippage. Given the supreme importance of this project to the future of Hanford cleanup, what do you propose to ensure that this facility stays on track? Is there some value in an independent review?

Answer: Senator, I appreciated the opportunity to discuss this issue with you during our recent meeting. I understand the importance of the Hanford cleanup and I share your view that the cleanup must proceed in a timely, efficient manner that is protective of human health and the environment. If confirmed, I will review the Hanford Vitrification Project and would welcome an opportunity to meet with you again to discuss this project further.

Question No. 194: The Volpentest HAMMER Training and Education Center at Hanford was built by DOE to ensure the health and safety of Hanford cleanup workers and emergency responders. HAMMER's unique hands-on "Training as Real as It Gets" is essential to the safe, cost effective, and successful completion of Hanford cleanup. Further, as the cleanup workforce decreases, more of HAMMER's capabilities will become available for other DOE missions, such as energy assurance and hydrogen safety, and for training law enforcement, security, emergency response, and other homeland security-related personnel.

Will you ensure that DOE continues to fully utilize HAMMER to protect the safety and health of Hanford cleanup workers? Will you support the development of new DOE training missions at HAMMER? Will you help with the Department of Homeland Security and other agencies to develop, expand, and support other training missions at HAMMER?

Answer: Senator, I am not familiar with this issue. If confirmed, I would review this matter and I would be happy to report to you my thoughts on HAMMER.

Question No. 195: When DOE recompetes its major site contracts for complex cleanup projects, the process often takes up to two years with extensive worker and community anxiety. Then, it may take up to another two years for the new contractor management team to get up to speed fully with subsequent impacts on the projects, workers, and communities. None of this is good for DOE, the workers, or the communities.

Will you consult to the extent allowed by law with the affected workers' and communities' representatives before a recompete decision is made, to determine the best course of action?

Answer: Generally when the government considers contract competition it uses an extensive array of mechanisms to convey public information and obtain feedback from interested parties. If confirmed, I will ensure that DOE employs these mechanisms and practices to the maximum extent practicable.

Question No. 196: Dr. Bodman, I also know you are beginning to understand the importance that I, and others in the Northwest delegation, place on the Bonneville Power Administration and the policies that affect its long-term viability. BPA has for decades been the engine of the regional economy. As such, I'm sure we'll be in frequent contact on many BPA-related issues.

First, I want to confirm something we've previously discussed. Namely, I want to ensure that you understand that the decision of whether BPA should join a regional transmission organization (RTO) is something that must be decided in the Northwest, after an inclusive stakeholder process that considers the real world costs and benefits of such a change. Can you commit to me that you will not, in your potential capacity as Energy Secretary, force BPA to join an RTO?

Answer: Senator, I appreciate your bringing the issue to my attention and while I do not feel I am in a position to make a commitment at this time, I can provide assurances that I will work with you on this issue should I be confirmed.

Question No. 197: Second, as you know, Bonneville has the statutory responsibility to maintain the reliability of the Northwest transmission system, of which it currently owns more than 75 percent. Interestingly, the Northwest is one of the few regions in the country where transmission lines are currently under construction. This is due to the unique way in which BPA uses borrowing authority, backed by Northwest ratepayers, to finance these investments. Unfortunately, the President's budget last year called for legislation that would tie Bonneville's hands, and make it virtually impossible for the agency to continue the transmission expansions necessary to maintain the reliability of the Northwest system. Under the proposal, BPA would exhaust its borrowing authority in 2008—well before the region can complete the needed transmission upgrades. Can you commit to me that as Secretary of Energy you will not support legislation that would impair BPA's ability to make these crucial investments?

Answer: I am not familiar with the funding levels being requested or other proposals for the Bonneville Power Administration in the FY '06 budget. If confirmed, I will evaluate this matter and I would be happy to meet with you to discuss your concerns further.

Question No. 198: For the past two years, the Pacific Northwest National Laboratory has been working with the Department to solve the issue of replacement facilities and lab space in the 300 Area of Hanford. The 300 Area is home to critical on-going research in science and national and homeland security, but the area is scheduled for closure by 2009 as part of the DOE accelerated cleanup program. Consequently, PNNL must vacate the area on a tight schedule, and without interrupting critical work for the DOE, NNSA, and DHS.

Planning for these facilities has begun, but the most substantial funding needs lie ahead. PNNL is an enduring asset to the state and the entire Pacific Northwest region, and we cannot afford to come up short on this investment. I understand we are in a difficult budget environment, but I would like to seek your commitment for continued funding. Will you commit to keep this effort on track?

Answer: I agree with you that the research that takes place at the Pacific Northwest Laboratory 300 Area is important to both science and homeland security issues. It is my understanding that DOE and the Department of Homeland Security are working cooperatively to ensure that a new laboratory is constructed and that the important mis-

sions at the laboratory go uninterrupted. If confirmed, I will review this matter and support it as appropriate.

Question No. 199: Research and technology applications developed to secure America's electricity grid system are being funded by the Department's Office of Electricity Transmission and Distribution. Many entities in Washington State, including the Pacific Northwest National Laboratory, have formed an Alliance that is working closely with the Department to help bring these technologies forward. I strongly support the GridWise and GridWorks programs and seek your support. Do you plan to make research and development through these programs a top priority?

Answer: I appreciate your support for the efforts of the Office of Electric Transmission and Distribution and if confirmed, look forward to working with you on programs like the GridWise and GridWorks programs.

Question No. 200: As you may know, I sponsored legislation in the last Congress to support the Genomes to Life program at the Department of Energy. I strongly support an expanded program and development of research centers to support this goal. Last year, the Office of Science released a Twenty-Year Facility Outlook that included four Genomes to Life centers. The FY05 Energy and Water Development appropriation includes \$10M to begin preliminary design of the first facility. Are you committed to fulfilling the implementation of the 20-year strategy, including the four GTL centers?

Answer: I will need to familiarize myself with this 20-year strategy for science facilities, if I am confirmed as Secretary. But, I can assure you that if confirmed, maintaining a robust scientific infrastructure will be an important priority for me.

Question No. 201: Last week, the Washington Post reported that the Bush administration's budget request would freeze most spending, including science, and slash or eliminate dozens of federal programs. In my view, this is a very short-sighted approach to ensuring the economic future of this country. In my state, for example, the DOE's Office of Science invests more than \$135 million a year in university grants and in support of the Pacific Northwest National Laboratory. Can you share with us your commitment to science and R&D investments being made at the Department of Energy?

Answer: The Department of Energy has a responsibility to maintain America's world leadership in Science. The Pacific Northwest National Laboratory certainly plays a key role in the Department's and the Nation's scientific enterprise and, if confirmed, I will pay very close attention to how we nurture that important asset in your state. While we pursue the President's commitment to deficit reduction, I can assure you that I will also work to maintain and improve upon America's scientific infrastructure that is the envy of the world.

Mr. SALAZAR. Mr. President, I am in support of the nomination of Dr. Samuel W. Bodman to be Secretary of Energy.

I look forward to working closely with Dr. Bodman as we tackle the important task of crafting a national energy policy that assures our Nation's energy independence and energy security and at the same time protects our air, land, and water for future generations.

Colorado is blessed with an abundance of natural energy resources, and the oil and gas industry is a significant part of our state economy. As long as America is dependent on foreign oil for a significant part of our energy needs,

however, our economy and our national security are at risk. We need to move rapidly toward energy independence. Renewable energy and conservation must also play a significant role as, together, we look for ways to diversify our portfolio of energy sources and reduce our dependence on fossil fuels. As we work to attain energy independence, we can also strengthen our economy, increase our national security, and protect our air, land, and water.

During Dr. Bodman's confirmation hearing before the Energy and Natural Resources Committee, I had the opportunity to discuss with Dr. Bodman a few of the many issues affecting Colorado, to which I hope Dr. Bodman will immediately turn his attention upon being confirmed today.

First, Dr. Bodman understands the importance of DOE's environmental cleanup at Rocky Flats, and he assures me that he will continue to make this a priority for the Department until the site is cleaned up and a large portion of it converted to a national wildlife refuge.

The cleanup of Rocky Flats serves as a model for the cleanup of DOE facilities nationwide, and it is therefore important to the people of my State and to the country as a whole for DOE to make its plant closure mission at Rocky Flats a priority and to complete environmental cleanup, waste management, and decommissioning by December 2006.

Second, I specifically requested that Dr. Bodman look into the Department's refusal, so far, to comply with the State of Colorado's institutional control laws, which were passed unanimously by the Colorado legislature and signed into law by our Governor. DOE has refused to put those restrictions in an environmental covenant, as required under State law. DOE has refused to comply with other States' institutional control laws as well. This refusal has raised serious questions about the long-term reliability of the cleanup now underway at DOE facilities across the country.

I strongly urge the Department to adopt a policy to comply with State institutional control laws. These are valid State laws. They enhance the safety of cleanups, and the cost of compliance is minimal. In my judgment, DOE is required to comply with these laws under the Federal Facility Compliance Act.

Dr. Bodman assured me that he would look into this important matter promptly, and I intend to hold him to that promise.

Third, Dr. Bodman pledged his support for the Department's National Renewable Energy Laboratory in Golden, CO. As you know, Mr. President, NREL is the Department of Energy's primary national laboratory for renewable energy and energy efficiency research and development. I am a proud supporter of NREL and its research projects. Providing NREL with the resources it needs will lead our Nation to greater energy independence and security.

In response to my questions, Dr. Bodman assures me the Department fully supports the construction of NREL's new Science and Technology Facility—the first new research laboratory on the lab's main campus in nearly a decade. The new facility will house key elements of NREL's world-class research in hydrogen and other promising renewable energy technologies and will push the envelope on sustainable, energy efficient building design. Construction of the facility is scheduled for completion in early 2007.

With these and other answers to my questions, I am pleased to vote today in support of Dr. Bodman's nomination to be our country's next Energy Secretary. But I want to make clear that I will continuously work to ensure that Dr. Bodman and the Department of Energy live up to these commitments to Colorado—that is my duty and I intend to fulfill it.

The Congress will work on an energy bill again this year. I look forward to working with my colleagues on the Energy and Natural Resources Committee and with Dr. Bodman to do everything we can to help develop a comprehensive and sustainable energy strategy that is also protective of a healthy environment in the West and across the country.

Thank you, Mr. President.

Mr. CONRAD. Mr. President, today the Senate is expected to confirm the nomination of Samuel Bodman to be the next Secretary of Energy.

As Secretary of Energy, Mr. Bodman will face challenges that are critically important to our economy and our national security. We depend on a stable supply of energy to keep our economy moving. Yet, the United States continues to rely too heavily on oil imports from other parts of the world, especially the Middle East. We import about 55 percent of the oil we consume, and this percentage is expected to increase to 70 percent by 2025. Similarly, we are relying more and more on imports of natural gas. This dependency puts us at a strategic and economic disadvantage. The Secretary of Energy must work with the diverse energy interests, the administration, and the Congress to develop a comprehensive Energy bill that will move us toward energy independence.

The Secretary of Energy position is especially important to North Dakota's energy producers and economy. North Dakota can be a significant supplier of electricity to the rest of the country. My State is blessed with an 800-year supply of lignite coal and the potential to be the biggest wind energy producer in the country.

The main challenge we face is developing a transmission grid that will allow our electricity producers to fully utilize these resources and send power to the rest of the country. We need to invest significant new resources in finding new ways to upgrade and expand our transmission capacity and reliability.

We also need to increase investment in, and more aggressively pursue, the development of clean coal technology. By reducing pollution from coal-burning power plants, clean coal technology will ensure that this plentiful, domestic source of energy remains a vital part of our national energy portfolio.

The nomination of Samuel Bodman is encouraging. Mr. Bodman has proven himself to be an effective manager as Deputy Secretary of the Treasury and Deputy Secretary of Commerce. In addition to his exemplary managerial skills, Mr. Bodman has the background knowledge and intellect to understand the importance of research on, and development of, advanced energy technologies. These technologies, including clean coal technology, will help us meet our country's energy challenges. I look forward to working with Mr. Bodman on the funding and development of grant programs to bring advanced technology to North Dakota's power producers and transmitters.

Today I offer my support for Senate confirmation of Mr. Samuel Bodman as our next Secretary of Energy.

#### LEGISLATIVE SESSION

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

#### MORNING BUSINESS

#### DEATH OF REUBEN LAW

Mr. REID. Mr. President, my native State of Nevada has always honored the brave men and women who fight to defend our Nation's freedom.

We have in Nevada a higher percentage of veterans than any other state except Alaska. We are fiercely proud of them, and we recognize that we owe them a tremendous debt.

So today, on behalf of all Nevadans, I rise to honor the life and memory of Reuben Law, who died on New Year's Day in Carson City at the age of 106.

He was a veteran of the First World War . . . one of 4.7 million who served in that conflict.

He was the last surviving Nevada resident who served in that war . . . and one of fewer than 200 surviving World War I veterans in the Nation.

Reuben Law grew up in Minnesota. He was working at a Ford plant in Minneapolis, assembling Model-T Fords, when he as a teenager enlisted in the Army.

He almost died before he ever set foot in Europe. The great influenza epidemic of 1918 was raging, and the flu claimed the lives of more than 60 soldiers on the transport ship that carried him to France.

But Reuben survived, and he served as an Army sergeant in eastern France in 1918 and 1919, transporting supplies and wounded soldiers to a military hospital.

Reuben and some of his buddies celebrated the end of the war by piling into

a truck and riding to the nearby town of Allerey. He would later recall that every girl they passed gave them a kiss, because everyone was so elated.

World War I was a horrible, bloody conflict. It was supposed to be "the war to end all wars." But only two decades later, the Second World War broke out.

Once again, Reuben Law stepped forward. He tried to re-enlist in the Army, but he was in his early 40s, and officers told him he was too old. So he spent World War II as a member of the U.S. Coast Guard Auxiliary, piloting patrol boats on the Mississippi River.

Between the wars, and after World War II, he had returned to live in his native Minnesota. He moved to Nevada in 1993.

Even then, Reuben Law wasn't through living. In his mid 90s, he went for rides in a hot air balloon, and he drove a car until he was 101.

Reuben Law spent most of his career working in the Minnesota parks department and a landscape architecture firm. In both jobs, he was able to spend a lot of time outdoors, which he cited as one reason for his longevity and good health.

He also claimed that he had good genes—and I suppose he was right, since his mother and one of his aunts lived to be 109.

Reuben was married twice . . . and he was twice a widower. He was the father of four children.

In my home State, we celebrate each October 31 as Nevada Day. Last October, Reuben Law was a special guest in the Nevada Day parade in Carson City.

Not too long ago, when he was asked about his remarkable life, Reuben quoted a saying from his favorite coffee cup:

I guess I've seen it all, I've heard it all, I've done it all I just can't remember it all.

Reuben Law couldn't remember everything he did in his long, storied life . . . but the people of Nevada will never forget his brave service.

In remembering him, we renew our commitment to honor each one of the brave men and women who put our Nation's security and freedom above their personal interests.

#### ENSURING COLLEGE ACCESS FOR ALL AMERICANS ACT

Mr. DURBIN. Mr. President, I rise to speak on behalf of the Ensuring College Access for All Americans Act. I am pleased to join Senators CORZINE and KENNEDY as a cosponsor.

This legislation would restore cuts to Pell grants, the principle Federal financial aid program for lower income college students. Although the President recently announced his intention to incremental increase the maximum grants available over the next 5 years, his administration has changed the formula for eligibility in a way that pushes thousands of American young people out of the program.

In Illinois, 48,600 students will be affected by this change. That's a lot of

students who are trying to piece together the financial aid package they need to go to school next year. Of those, close to 1,500 young people will entirely lose eligibility for the program. Thanks to the changes made by this administration, students in Illinois will lose \$5.5 million in direct Federal grants for college costs.

I urge my colleagues to keep in mind that 90 percent of Pell Grant recipients are considered low-income. Nearly 1.4 million recipients nationwide will see a reduction or total loss of their Pell grants. The Department's new tax tables will eliminate or reduce aid for 26 percent of all Pell grant recipients. These are kids—students—who with their families are working hard to finance a college education.

The students most affected by these changes are likely to work longer hours, borrow more money, or reduce their academic course load in order to balance any loss of funds. Without grant assistance, low-income students have to rely more heavily on student loans. Pell grant recipients are already four times more likely than all other students to take out loans, and they will graduate with twice as much debt as their peers.

Why is this happening? It has been 17 years since the tax tables were last updated. Yes, we need timely updates, greater accuracy and alignment with current state tax policy, but the administration's proposal does not even reflect current tax levels. Under the updated calculation, families are getting less credit for their state and local taxes at a time when they are actually paying more taxes. The administration's "new" tax tables are based on Fiscal Year 2002 State tax information. According to the National Association of State Budget Officers, though, since FY 2002, states have enacted \$14.1 billion in tax and fee increases. Because the administration's proposal is still based on outdated tax information, it does not take into account these substantial increases in what families are actually paying in State taxes.

The legislation we introduce today restores fairness to the eligibility process. It restores opportunity for the 1.4 million low- and middle-income young people who are registering for classes, paying tuition and buying books at a time when tuition costs are rising exponentially. Let's make sense of the Pell grant eligibility process, protect the modest grant levels available for students, and extend the opportunity that higher education in America provides.

#### RULES OF PROCEDURE—SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERTS. Mr. President, paragraph 2 of Senate rule XXVI requires that not later than March 1 of the first year of each Congress, the rules of each Committee shall be published in the RECORD.

In compliance with this provision, I ask unanimous consent that the Rules

of the Select Committee on Intelligence be printed in the RECORD.

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

#### RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON INTELLIGENCE

##### RULE 1. CONVENING OF MEETINGS

1.1 The regular meeting day of the Select Committee on Intelligence for the transaction of Committee business shall be every other Wednesday of each month, unless otherwise directed by the Chairman.

1.2 The Chairman shall have authority, upon notice, to call such additional meetings of the Committee as he may deem necessary and may delegate such authority to any other member of the Committee.

1.3 A special meeting of the Committee may be called at any time upon the written request of five or more members of the Committee filed with the Clerk of the Committee.

1.4 In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C. and at least 48 hours in the case of any meeting held outside Washington, D.C.

1.5 If five members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, these members may call a meeting by filing a written notice with the Clerk of the Committee who shall promptly notify each member of the Committee in writing of the date and time of the meeting.

##### RULE 2. MEETING PROCEDURES

2.1 Meetings of the Committee shall be open to the public except as provided in S. Res. 9, 94th Congress, 1st Session.

2.2 It shall be the duty of the Staff Director to keep or cause to be kept a record of all Committee proceedings.

2.3 The Chairman of the Committee, or if the Chairman is not present the Vice Chairman, shall preside over all meetings of the Committee. In the absence of the Chairman and the Vice Chairman at any meeting, the ranking majority member, or if no majority member is present the ranking minority member present, shall preside.

2.4 Except as otherwise provided in these Rules, decisions of the Committee shall be by majority vote of the members present and voting. A quorum for the transaction of Committee business, including the conduct of executive sessions, shall consist of no less than one-third of the Committee members, except that for the purpose of hearing witnesses, taking sworn testimony, and receiving evidence under oath, a quorum may consist of one Senator.

2.5 A vote by any member of the Committee with respect to any measure or matter being considered by the Committee may be cast by proxy if the proxy authorization: (1) is in writing; (2) designates the member of the Committee who is to exercise the proxy; and (3) is limited to a specific measure or matter and any amendments pertaining thereto. Proxies shall not be considered for the establishment of a quorum.

2.6 Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in

opposition to such measure or matter by each member of the Committee.

#### RULE 3. SUBCOMMITTEES

Creation of subcommittees shall be by majority vote of the Committee. Subcommittees shall deal with such legislation and oversight of programs and policies as the Committee may direct. The subcommittees shall be governed by the Rules of the Committee and by such other rules they may adopt which are consistent with the Rules of the Committee.

#### RULE 4. REPORTING OF MEASURES OR RECOMMENDATIONS

4.1 No measures or recommendations shall be reported, favorably or unfavorably, from the Committee unless a majority of the Committee is actually present and a majority concur.

4.2 In any case in which the Committee is unable to reach a unanimous decision, separate views or reports may be presented by any member or members of the Committee.

4.3 A member of the Committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three working days in which to file such views, in writing with the Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report.

4.4 Routine, non-legislative actions required of the Committee may be taken in accordance with procedures that have been approved by the Committee pursuant to these Committee Rules.

#### RULE 5. NOMINATIONS

5.1 Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least 14 days before being voted on by the Committee.

5.2 Each member of the Committee shall be promptly furnished a copy of all nominations referred to the Committee.

5.3 Nominees who are invited to appear before the Committee shall be heard in public session, except as provided in Rule 2.1.

5.4 No confirmation hearing shall be held sooner than seven days after receipt of the background and financial disclosure statement unless the time limit is waived by a majority vote of the Committee.

5.5 The Committee vote on the confirmation shall not be sooner than 48 hours after the Committee has received transcripts of the confirmation hearing unless the time limit is waived by unanimous consent of the Committee.

5.6 No nomination shall be reported to the Senate unless the nominee has filed a background and financial disclosure statement with the Committee.

#### RULE 6. INVESTIGATIONS

No investigation shall be initiated by the Committee unless at least five members of the Committee have specifically requested the Chairman or the Vice Chairman to authorize such an investigation. Authorized investigations may be conducted by members of the Committee and/or designated Committee staff members.

#### RULE 7. SUBPOENAS

Subpoenas authorized by the Committee for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the Chairman, the Vice Chairman, or any member of the Committee designated by the Chairman, and may be served by any person designated by the Chairman, Vice Chairman or member issuing the subpoenas. Each sub-

poena shall have attached thereto a copy of S. Res. 400, 94th Congress, 2nd Session and a copy of these Rules.

#### RULE 8. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

8.1 *Notice.*—Witnesses required to appear before the Committee shall be given reasonable notice, and all witnesses shall be furnished a copy of these Rules.

8.2 *Oath or Affirmation.*—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the Committee.

8.3 *Interrogation.*—Committee interrogation shall be conducted by members of the Committee and such Committee staff as are authorized by the Chairman, the Vice Chairman, or the presiding member.

8.4 *Counsel for the Witness.*—(a) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the Committee of such fact. If the witness informs the Committee of this fact at least 24 hours prior to his or her appearance before the Committee, the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(b) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject such counsel to disciplinary action which may include warning, censure, removal, or a recommendation of contempt proceedings.

(c) There shall be no direct or cross-examination by counsel. However, counsel may submit in writing any question he wishes propounded to his client or to any other witness and may, at the conclusion of his client's testimony, suggest the presentation of other evidence or the calling of other witnesses. The Committee may use such questions and dispose of such suggestions as it deems appropriate.

8.5 *Statements by Witnesses.*—A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of his or her testimony. Such statements shall not exceed a reasonable period of time as determined by the Chairman, or other presiding members. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the Clerk of the Committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of his or her appearance before the Committee.

8.6 *Objections and Rulings.*—Any objection raised by a witness or counsel shall be ruled upon by the Chairman or other presiding member, and such ruling shall be the ruling of the Committee unless a majority of the Committee present overrules the ruling of the Chair.

8.7 *Inspection and Correction.*—All witnesses testifying before the Committee shall be given a reasonable opportunity to inspect, in the office of the Committee, the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the Committee within five days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the Chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made

available to that witness at his or her expense.

8.8 *Requests to Testify.*—The Committee will consider requests to testify on any matter or measure pending before the Committee. A person who believes that testimony or other evidence presented at a public hearing, or any comment made by a Committee member or a member of the Committee staff, may tend to affect adversely his or her reputation, may request to appear personally before the Committee to testify on his or her own behalf, or may file a sworn statement of facts relevant to the testimony, evidence, or comment, or may submit to the Chairman proposed questions in writing for the cross-examination of other witnesses. The Committee shall take such action as it deems appropriate.

8.9 *Contempt Procedures.*—No recommendation that a person be cited for contempt of Congress shall be forwarded to the Senate unless and until the Committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he or she should not be held in contempt, and agreed, by majority vote of the Committee, to forward such recommendation to the Senate.

8.10 *Release of Name of Witness.*—Unless authorized by the Chairman, the name of any witness scheduled to be heard by the Committee shall not be released prior to, or after, his or her appearance before the Committee.

#### RULE 9. PROCEDURES FOR HANDLING CLASSIFIED OR SENSITIVE MATERIAL

9.1 Committee staff offices shall operate under strict precautions. At least one security guard shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves.

9.2 Sensitive or classified documents and material shall be segregated in a secure storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the Committee offices of such documents and other materials is prohibited except as is necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, and in conformity with Section 10.3 hereof. All documents or materials removed from the Committee offices for such authorized purposes must be returned to the Committee's secure storage area for overnight storage.

9.3 Each member of the Committee shall at all times have access to all papers and other material received from any source. The Staff Director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the Committee, and such registry shall be available to any member of the Committee.

9.4 Whenever the Select Committee on Intelligence makes classified material available to any other Committee of the Senate or to any Member of the Senate not a member of the Committee, such material shall be accompanied by a verbal or written notice to the recipients advising of their responsibility to protect such material pursuant to Section 8 of S. Res. 400 of the 94th Congress. The Clerk of the Committee shall ensure that such notice is provided and shall maintain a written record identifying the particular information transmitted and the Committee or members of the Senate receiving such information.

9.5 Access to classified information supplied to the Committee shall be limited to those Committee staff members with appropriate security clearance and a need-to-



know, as determined by the Committee, and, under the Committee's direction, the Staff Director and Minority Staff Director.

9.6 No member of the Committee or of the Committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the Committee in executive session including the name of any witness who appeared or was called to appear before the Committee in executive session, or the contents of any papers or materials or other information received by the Committee except as authorized herein, or otherwise as authorized by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate. For purposes of this paragraph, members and staff of the Committee may disclose classified information in the possession of the Committee only to persons with appropriate security clearances who have a need-to-know such information for an official governmental purpose related to the work of the Committee. Information discussed in executive sessions of the Committee and information contained in papers and materials which are not classified but which are controlled by the Committee may be disclosed only to persons outside the Committee who have a need-to-know such information for an official governmental purpose related to the work of the Committee and only if such disclosure has been authorized by the Chairman and Vice Chairman of the Committee, or by the Staff Director and Minority Staff Director, acting on their behalf.

9.7 Failure to abide by Rule 9.6 shall constitute grounds for referral to the Select Committee on Ethics pursuant to Section 8 of S. Res. 400. Prior to a referral to the Select Committee on Ethics pursuant to Section 8 of S. Res. 400, the Chairman and Vice Chairman shall notify the Majority Leader and Minority Leader.

9.8 Before the Committee makes any decision regarding the disposition of any testimony, papers, or other materials presented to it, the Committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the members of the Committee or the Committee staff.

9.9 Attendance of persons outside the Committee at closed meetings of the Committee shall be kept at a minimum and shall be limited to persons with appropriate security clearance and a need-to-know the information under consideration for the execution of their official duties. Notes taken at such meetings by any person in attendance shall be returned to the secure storage area in the Committee's offices at the conclusion of such meetings, and may be made available to the department, agency, office, Committee or entity concerned only in accordance with the security procedures of the Committee.

#### RULE 10. STAFF

10.1 For purposes of these rules, Committee staff includes employees of the Committee, consultants to the Committee, or any other person engaged by contract or otherwise to perform services for or at the request of the Committee. To the maximum extent practicable, the Committee shall rely on its full-time employees to perform all staff functions. No individual may be retained as staff of the Committee or to perform services for the Committee unless that individual holds appropriate security clearances.

10.2 The appointment of Committee staff shall be confirmed by a majority vote of the Committee. After confirmation, the Chairman shall certify Committee staff appointments to the Financial Clerk of the Senate in writing. No Committee staff shall be given access to any classified information or regular access to the Committee offices, until such Committee staff has received an appropriate security clearance as described in Section 6 of S. Res. 400 of the 94th Congress.

10.3 The Committee staff works for the Committee as a whole, under the supervision of the Chairman and Vice Chairman of the Committee. The duties of Committee staff shall be performed, and Committee staff personnel affairs and day-to-day operations, including security and control of classified documents and materials, shall be administered under the direct supervision and control of the Staff Director. The Minority Staff Director and the Minority Counsel shall be kept fully informed regarding all matters and shall have access to all material in the files of the Committee.

10.4 The Committee staff shall assist the minority as fully as the majority in the expression of minority views, including assistance in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the Committee and the Senate.

10.5 The members of the Committee staff shall not discuss either the substance or procedure of the work of the Committee with any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, either during their tenure as a member of the Committee staff or at any time thereafter except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

10.6 No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment to abide by the conditions of the non-disclosure agreement promulgated by the Senate Select Committee on Intelligence, pursuant to Section 6 of S. Res. 400 of the 94th Congress, 2d Session, and to abide by the Committee's code of conduct.

10.7 No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment, to notify the Committee, or in the event of the Committee's termination the Senate, of any request for his or her testimony, either during his or her tenure as a member of the Committee staff or at any time thereafter with respect to information which came into his or her possession by virtue of his or her position as a member of the Committee staff. Such information shall not be disclosed in response to such requests except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such manner as may be determined by the Senate.

10.8 The Committee shall immediately consider action to be taken in the case of any member of the Committee staff who fails to conform to any of these Rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the Committee staff.

10.9 Within the Committee staff shall be an element with the capability to perform audits of programs and activities undertaken by departments and agencies with intelligence functions. Such element shall be

comprised of persons qualified by training and/or experience to carry out such functions in accordance with accepted auditing standards.

10.10 The workplace of the Committee shall be free from illegal use, possession, sale or distribution of controlled substances by its employees. Any violation of such policy by any member of the Committee staff shall be grounds for termination of employment. Further, any illegal use of controlled substances by a member of the Committee staff, within the workplace or otherwise, shall result in reconsideration of the security clearance of any such staff member and may constitute grounds for termination of employment with the Committee.

10.11 In accordance with Title III of the Civil Rights Act of 1991 (P.L. 102-166), all personnel actions affecting the staff of the Committee shall be made free from any discrimination based on race, color, religion, sex, national origin, age, handicap or disability.

#### RULE 11. PREPARATION FOR COMMITTEE MEETINGS

11.1 Under direction of the Chairman and the Vice Chairman, designated Committee staff members shall brief members of the Committee at a time sufficiently prior to any Committee meeting to assist the Committee members in preparation for such meeting and to determine any matter which the Committee member might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the Committee that bear on matters to be considered at the meeting.

11.2 The Staff Director shall recommend to the Chairman and the Vice Chairman the testimony, papers, and other materials to be presented to the Committee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the Rules of the Senate and Rules of the Committee.

11.3 The Staff Director shall ensure that covert action programs of the U.S. Government receive appropriate consideration by the Committee no less frequently than once a quarter.

#### RULE 12. LEGISLATIVE CALENDAR

12.1 The Clerk of the Committee shall maintain a printed calendar for the information of each Committee member showing the measures introduced and referred to the Committee and the status of such measures; nominations referred to the Committee and their status; and such other matters as the Committee determines shall be included. The Calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the Committee.

12.2 Unless otherwise ordered, measures referred to the Committee shall be referred by the Clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

#### RULE 13. COMMITTEE TRAVEL

13.1 No member of the Committee or Committee staff shall travel abroad on Committee business unless specifically authorized by the Chairman and Vice Chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the Committee when travel is completed.

13.2 When the Chairman and the Vice Chairman approve the foreign travel of a member of the Committee staff not accompanying a member of the Committee, all members of the Committee are to be advised, prior to the commencement of such travel, of



its extent, nature and purpose. The report referred to in Rule 13.1 shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee pursuant to the Rules of the Committee.

13.3 No member of the Committee staff shall travel within this country on Committee business unless specifically authorized by the Staff Director as directed by the Committee.

#### RULE 14. CHANGES IN RULES

These Rules may be modified, amended, or repealed by the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

#### S. RES. 400

*Resolved*, That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the Executive and Legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a)(1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of not to exceed fifteen members appointed as follows:

(A) two members from the Committee on Appropriations;

(B) two members from the Committee on Armed Services;

(C) two members from the Committee on Foreign Relations;

(D) two members from the Committee on the Judiciary; and

(E) not to exceed seven members to be appointed from the Senate at large.

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate. Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.

(3)(A) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.

(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.

(b) At the beginning of each Congress, the Majority Leader of the Senate shall select a

chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other Committee referred to in paragraph 4(e)(1) of rule XXV of the Standing Rules of the Senate.

(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and the Vice Chairman of the select Committee, respectively.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence.

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b)(1) Any proposed legislation reported by the select Committee except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such standing committee; and any proposed legislation reported by any committee, other than the select Committee, which contains any matter within the jurisdiction of the select Committee shall, at the request of the chairman of the select Committee, be referred to the select Committee for its consideration of such matter and be reported to the Senate by the select Committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such committee.

(2) In any case in which a committee fails to report any proposed legislation referred to

it within the time limit prescribed in this subsection, such Committee shall be automatically discharged from further consideration of such proposed legislation on the 10th day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise, or the Majority Leader or Minority Leader request, prior to that date, an additional 5 days on behalf of the Committee to which the proposed legislation was sequentially referred. At the end of that additional 5 day period, if the Committee fails to report the proposed legislation within that 5 day period, the Committee shall be automatically discharged from further consideration of such proposed legislation unless the Senate provides otherwise.

(3) In computing any 10 or 5 day period under this subsection there shall be excluded from such computation any days on which the Senate is not in Session.

(4) The reporting and referral processes outlined in this subsection shall be conducted in strict accordance with the Standing Rules of the Senate. In accordance with such rules, committees to which legislation is referred are not permitted to make changes or alterations to the text of the referred bill and its annexes, but may propose changes or alterations to the same in the form of amendments.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic, but not less than quarterly, reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters, requiring the attention of the Senate or such other committee or committees. In making such report, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301(c) of

the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 5. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(1) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpoenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoenas.

SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform service for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the [Select Committee on Ethics]) and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any in-

formation, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the Executive branch, and which the Executive branch requests be kept secret, such committee shall—

(A) first, notify the Majority Leader and Minority Leader of the Senate of such vote; and

(B) second, consult with the Majority Leader and Minority Leader before notifying the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the Majority Leader and the Minority Leader the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reason therefore, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the Majority Leader and Minority Leader of the Senate and the select Committee of his objections to the disclosure of such information as provided in paragraph (2), the Majority Leader and Minority Leader jointly or the select Committee, by majority vote, may refer the question of the disclosure of such information to the Senate for consideration.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall publicly disclose the information ordered to be disclosed.

(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate (whichever the case

may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate or move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the [Select Committee on Ethics] to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the [Select Committee on Ethics] shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the [Select Committee on Ethics] determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SEC. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 10. Upon expiration of the Select Committee on Government Operations with Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

SEC. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with

respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided*, That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, Security, and dissemination of intelligence:

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the Executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the Executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive

order, rule, or regulation to improve the protection of intelligence Secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding or sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the Government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 14. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 15. (a) In addition to other committee staff selected by the select Committee, the select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces. Designated personal representatives shall have the same access to Committee staff, information, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.

(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee security clearance requirements for employment by the select Committee.

(d) Of the funds made available to the select Committee for personnel—

(1) not more than 60 percent shall be under the control of the Chairman; and

(2) not more than 40 percent shall be under the control of the Vice Chairman.

SEC. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

SEC. 17. (a) The select Committee shall have jurisdiction for reviewing, holding hearings, and reporting the nominations of civilian persons nominated by the President to fill all positions within the intelligence community requiring the advice and consent of the Senate.

(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with such persons, but only the select Committee shall report such nominations.

#### S. RES. 9

*Resolved*, That paragraph 7(b) of rule XXV of the Standing rules of the Senate is amended to read as follows:

"(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meetings may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters be discussed or the testimony to be taken at such portion or portions—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

"(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

"(4) will disclose the identity of any informer or law enforcement agency or will

disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

“(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

“(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

“(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such persons.

Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.”

SEC. 2. Section 133A(b) of the Legislative Reorganization Act of 1946, section 242(a) of the Legislative Reorganization Act of 1970, and section 102(d) and (e) of the Congressional Budget Act of 1974 are repealed.

S. RES. 445

*Resolved,*

#### SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

#### TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

##### SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

(1) Department of Homeland Security, except matters relating to—

(A) the Coast Guard, the Transportation Security Administration, the Federal Law Enforcement Training Center or the Secret Service; and

(B)(i) the United States Citizenship and Immigration Service; or

(ii) the immigration functions of the United States Customs and Border Protection or the United States Immigration and Customs Enforcement or the Directorate of Border and Transportation Security; and

(C) the following functions performed by any employee of the Department of Homeland Security—

(i) any customs revenue function including any function provided for in section 415 of the Homeland Security Act of 2002 (Public Law 107-296);

(ii) any commercial function or commercial operation of the Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement, including matters relating to trade facilitation and trade regulation; or

(iii) any other function related to clause (i) or (ii) that was exercised by the United States Customs Service on the day before the effective date of the Homeland Security Act of 2002 (Public Law 107-296).

The jurisdiction of the Committee on Homeland Security and Governmental Affairs in this paragraph shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate: *Provided*, That the jurisdiction provided

under section 101(b)(1) shall not include the National Flood Insurance Act of 1968, or functions of the Federal Emergency Management Agency related thereto.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are—

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as “rescissions” and “deferrals”;

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.

(e) OMB NOMINEES.—The committee on the Budget and the Committee on Homeland Security and Governmental Affairs shall have joint jurisdiction over the nominations of persons nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget, and if one committee votes to order reported such a nomination, the other must report within 30 calendar days session, or be automatically discharged.

#### TITLE II—INTELLIGENCE OVERSIGHT REFORM

##### SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as “S. Res. 400”) is amended by—

(1) inserting “(A)” after “(3)”; and

(2) inserting at the end the following:

“(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.”.

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting “not to exceed” before “fifteen members”; and

(2) in paragraph (1)(E), by inserting “not to exceed” before “seven”; and

(3) in paragraph (2), by striking the second sentence and inserting “Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin”.

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN.—Section 2(b) of S. Res 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: “At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.”.

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

“(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman of the select Committee, respectively.”.

(f) REPORTS.—Section 4(a) of S. Res 400 is amended by inserting “, but not less than quarterly,” after “periodic”.

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

“SEC. 15. (a) In addition to other committee staff selected by the select Committee, the select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

“(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each

employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces. Designated personal representatives shall have the same access to Committee staff, information, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.

“(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee security clearance requirements for employment by the select Committee.

“(d) Of the funds made available to the select Committee for personnel—

“(1) not more than 60 percent shall be under the control of the Chairman; and

“(2) not less than 40 percent shall be under the control of the Vice Chairman.”.

(h) **NOMINEES.**—S. Res. 400 is amended by adding at the end the following:

“SEC. 17. (a) The select Committee shall have jurisdiction for reviewing, holding hearings, and reporting the nominations of civilian persons nominated by the President to fill all positions within the intelligence community requiring the advice and consent of the Senate.

“(b) Other committees with jurisdiction over the nominees’ executive branch department may hold hearings and interviews with such persons, but only the select Committee shall report such nominations.”.

(i) **JURISDICTION.**—Section 3(b) of S. Res. 400 is amended to read as follows:

“(b)(1) Any proposed legislation reported by the select Committee except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such standing committee; and any proposed legislation reported by any committee, other than the select Committee, which contains any matter within the jurisdiction of the select Committee shall, at the request of the chairman of the select Committee, be referred to the select Committee for its consideration of such matter and be reported to the Senate by the select Committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such committee.

“(2) In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed in this subsection, such Committee shall be automatically discharged from further consideration of such proposed legislation on the 10th day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise, or the Majority Leader or Minority Leader request, prior to that date, an additional 5 days on behalf of the Committee to which the proposed legislation was sequentially referred. At the end of that additional 5 day period, if the Committee fails to report the proposed legislation within that 5 day period, the Committee shall be automatically discharged from further consideration of such proposed legislation unless the Senate provides otherwise.

“(3) In computing any 10 or 5 day period under this subsection there shall be excluded from such computation any days on which the Senate is not in session.

“(4) The reporting and referral processes outlined in this subsection shall be con-

ducted in strict accordance with the Standing Rules of the Senate. In accordance with such rules, committees to which legislation is referred are not permitted to make changes or alterations to the text of the referred bill and its annexes, but may propose changes or alterations to the same in the form of amendments.”.

(j) **PUBLIC DISCLOSURE.**—Section 8 of S. Res. 400 is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “shall notify the President of such vote” and inserting “shall—

“(A) first, notify the Majority Leader and Minority Leader of the Senate of such vote; and

“(B) second, consult with the Majority Leader and Minority Leader before notifying the President of such vote.”; (B) in paragraph (2), by striking “transmitted to the President” and inserting “transmitted to the Majority Leader and the Minority Leader and the President”; and (C) by amending paragraph (3) to read as follows:

“(3) If the President, personally, in writing, notifies the Majority Leader and Minority Leader of the Senate and the select Committee of his objections to the disclosure of such information as provided in paragraph (2), the Majority Leader and Minority Leader jointly or the select Committee, by majority vote, may refer the question of the disclosure of such information to the Senate for consideration.”.

#### TITLE III—COMMITTEE STATUS

##### SEC. 301. COMMITTEE STATUS.

(a) **HOMELAND SECURITY.**—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) **INTELLIGENCE.**—The Select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

#### TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

##### SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) **ESTABLISHMENT.**—There is established in the Select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) **RESPONSIBILITY.**—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

##### SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) **ESTABLISHMENT.**—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Committee on Appropriations shall reorganize into 13 subcommittees as soon as possible after the convening of the 109th Congress.

(b) **JURISDICTION.**—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters, as determined by the Senate Committee on Appropriations.

#### TITLE V—EFFECTIVE DATE

##### SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

#### RULES OF PROCEDURE—RULES OF THE SPECIAL COMMITTEE ON AGING

Mr. SMITH. Mr. President, in accordance with rule XXVI, paragraph 2, of

the Standing Rules of the Senate, I hereby submit for publication the rules of the Special Committee on Aging.

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

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

#### SPECIAL COMMITTEE ON AGING Jurisdiction and Authority

S. Res. 4, 104, 95th Cong., 1st Sess. (1977)

(a)(1) There is established a Special Committee on Aging (hereafter in this section referred to as the “special committee”) which shall consist of nineteen Members. The Members and chairman of the special committee shall be appointed in the same manner and at the same time as the Members and chairman of a standing committee of the Senate. After the date on which the majority and minority Members of the special committee are initially appointed on or after the effective date of title I of the Committee System Reorganization Amendments of 1977, each time a vacancy occurs in the Membership of the special committee, the number of Members of the special committee shall be reduced by one until the number of Members of the special committee consists of nine Senators.

(2) For purposes of paragraph 1 of rule XXV; paragraphs 1, 7(a)(1)–(2), 9, and 10(a) of rule XXVI; and paragraphs 1(a)–(d), and 2 (a) and (d) of rule XXVII of the Standing Rules of the Senate; and for purposes of section 202 (i) and (j) of the Legislative Reorganization Act of 1946, the special committee shall be treated as a standing committee of the Senate.

(b)(1) It shall be the duty of the special committee to conduct a continuing study of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary, of obtaining care or assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

(2) The special committee shall, from time to time (but not less often than once each year), report to the Senate the results of the study conducted pursuant to paragraph (1), together with such recommendation as it considers appropriate.

(c)(1) For the purposes of this section, the special committee is authorized, in its discretion, (A) to make investigations into any matter within its jurisdiction, (B) to make expenditures from the contingent fund of the Senate, (C) to employ personnel, (D) to hold hearings, (E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (F) to require by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (G) to take depositions and other testimony, (H) to procure the service of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) and (I) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(2) The chairman of the special committee or any Member thereof may administer oaths to witnesses.

(3) Subpoenas authorized by the special committee may be issued over the signature of the chairman, or any Member of the special committee designated by the chairman,

and may be served by any person designated by the chairman or the Member signing the subpoena.

(d) All records and papers of the temporary Special Committee on Aging established by Senate Resolution 33, Eighty-seventh Congress, are transferred to the special committee.

#### Rules of Procedure

141 Cong. Rec. S3293 (daily ed. Feb. 28, 1995)

##### I. CONVENING OF MEETINGS AND HEARINGS

1. Meetings. The Committee shall meet to conduct Committee business at the call of the Chairman.

2. Special Meetings. The Members of the Committee may call additional meetings as provided in Senate Rule XXVI (3).

##### 3. Notice and Agenda:

(a) Hearings. The Committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement.

(b) Meetings. The Chairman shall give the Members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(c) Shortened Notice. A hearing or meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the Ranking Minority Member, determines that there is good cause to begin the hearing or meeting on shortened notice. An agenda will be furnished prior to such a meeting.

4. Presiding Officer. The Chairman shall preside when present. If the Chairman is not present at any meeting or hearing, the Ranking Majority Member present shall preside. Any Member of the Committee may preside over the conduct of a hearing.

##### II. CLOSED SESSIONS AND CONFIDENTIAL MATERIALS

1. Procedure. All meetings and hearings shall be open to the public unless closed. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern the matters enumerated in Rule II.3. Immediately after such discussion, the meeting or hearing may be closed by a vote in open session of a majority of the Members of the Committee present.

2. Witness Request. Any witness called for a hearing may submit a written request to the Chairman no later than twenty-four hours in advance for his examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

3. Closed Session Subjects. A meeting or hearing or portion thereof may be closed if the matters to be discussed concern: (1) national security; (2) Committee staff personnel or internal staff management or procedure; (3) matters tending to reflect adversely on the character or reputation or to invade the privacy of the individuals; (4) Committee investigations; (5) other matters enumerated in Senate Rule XXVI (5)(b).

4. Confidential Matter. No record made of a closed session, or material declared confidential by a majority of the Committee, or report of the proceedings of a closed session, shall be made public, in whole or in part or by way of summary, unless specifically authorized by the Chairman and Ranking Minority Member.

##### 5. Broadcasting:

(a) Control. Any meeting or hearing open to the public may be covered by television, radio, or still photography. Such coverage must be conducted in an orderly and unobtrusive manner, and the Chairman may for good cause terminate such coverage in whole or in part, or take such other action to control it as the circumstances may warrant.

(b) Request. A witness may request of the Chairman, on grounds of distraction, harassment, personal safety, or physical discomfort, that during his testimony cameras, media microphones, and lights shall not be directed at him.

##### III. QUORUMS AND VOTING

1. Reporting. A majority shall constitute a quorum for reporting a resolution, recommendation or report to the Senate.

2. Committee Business. A third shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority Member is present. One Member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

##### 3. Polling:

(a) Subjects. The Committee may poll (1) internal Committee matters including those concerning the Committee's staff, records, and budget; (2) other Committee business which has been designated for polling at a meeting.

(b) Procedure. The Chairman shall circulate polling sheets to each Member specifying the matter being polled and the time limit for completion of the poll. If any Member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of polls, if the Chairman determines that the polled matter is one of the areas enumerated in Rule II.3, the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

##### IV. INVESTIGATIONS

1. Authorization for Investigations. All investigations shall be conducted on a bipartisan basis by Committee staff. Investigations may be initiated by the Committee staff upon the approval of the Chairman and the Ranking Minority Member. Staff shall keep the Committee fully informed of the progress of continuing investigations, except where the Chairman and the Ranking Minority Member agree that there exists temporary cause for more limited knowledge.

2. Subpoenas. Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, or any other materials shall be issued by the Chairman, or by any other Member of the Committee designated by him. Prior to the issuance of each subpoena, the Ranking Minority Member, and any other Member so requesting, shall be notified regarding the identity of the person to whom the subpoena will be issued and the nature of the information sought, and its relationship to the investigation.

3. Investigative Reports. All reports containing findings or recommendations stemming from Committee investigations shall be printed only with the approval of a majority of the Members of the Committee.

##### V. HEARINGS

1. Notice. Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours notice, and all witnesses called shall be furnished with a copy of these rules upon request.

2. Oath. All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any member, may request and administer the oath.

3. Statement. Witnesses are required to make an introductory statement and shall file 150 copies of such statement with the Chairman or clerk of the Committee at least 72 hours in advance of their appearance, unless the Chairman and Ranking Minority Member determine that there is good cause

for a witness's failure to do so. A witness shall be allowed no more than ten minutes to orally summarize their prepared statement.

##### 4. Counsel:

(a) A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or depositions or staff interview to advise such witness of his rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association.

(b) A witness is unable for economic reasons to obtain counsel may inform the Committee at least 48 hours prior to the witness's appearance, and it will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the Committee. Failure to obtain counsel will not excuse the witness from appearing and testifying.

5. Transcript. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors of fact, the Chairman or a staff officer designated by him shall rule on such request.

6. Impugned Persons. Any person who believes that evidence presented, or comment made by a Member or staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his character or adversely affect his reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the Committee to testify in his own behalf; and

(c) submit questions in writing which he requests be used for the cross-examination of other witnesses called by the Committee. The Chairman shall inform the Committee of such requests for appearance or cross-examination. If the Committee so decides; the requested questions, or paraphrased versions or portions of them, shall be put to the other witness by a Member or by staff.

7. Minority Witnesses. Whenever any hearing is conducted by the Committee, the minority on the Committee shall be entitled, upon request made by a majority of the minority Members to the Chairman, to call witnesses selected by the minority to testify or produce documents with respect to the measure or matter under consideration during at least one day of the hearing. Such request must be made before the completion of the hearing or, if subpoenas are required to call the minority witnesses, no later than three days before the completion of the hearing.

8. Conduct of Witnesses, Counsel and Members of the Audience. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing the Chairman or presiding Member of the Committee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.



## VI. DEPOSITIONS AND COMMISSIONS

1. Notice. Notices for the taking of depositions in an investigation authorized by the Committee shall be authorized and issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a Committee subpoena.

2. Counsel. Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule V.4.

3. Procedure. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. Objections by the witnesses as to the form of questions shall be noted by the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Committee staff may proceed with the deposition, or may at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from a Member of the Committee. If the Member overrules the objection, he may refer the matter to the Committee or he may order and direct the witness to answer the question, but the Committee shall not initiate the procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a Member of the Committee.

4. Filing. The Committee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review. No later than five days thereafter, the witness shall return a signed copy, and the staff shall enter the changes, if any, requested by the witness in accordance with Rule V.6. If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record to the testimony, and the transcript shall then be filed with the Committee clerk. Committee staff may stipulate with the witness to changes in this procedure; deviations from the procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

5. Commissions. The Committee may authorize the staff, by issuance of commissions, to fill in prepared subpoenas, conduct field hearings, inspect locations, facilities, or systems of records, or otherwise act on behalf of the Committee. Commissions shall be accompanied by instructions from the Committee regulating their use.

## VII. SUBCOMMITTEES

1. Establishment. The Committee will operate as a Committee of the Whole, reserving to itself the right to establish temporary subcommittees at any time by majority vote. The Chairman of the full Committee and the Ranking Minority Member shall be ex officio Members of all subcommittees.

2. Jurisdiction. Within its jurisdiction as described in the Standing Rules of the Senate, each subcommittee is authorized to conduct investigations, including use of subpoenas, depositions, and commissions.

3. Rules. A subcommittee shall be governed by the Committee rules, except that its

quorum for all business shall be one-third of the subcommittee Membership, and for hearings shall be one Member.

## VIII. REPORTS

Committee reports incorporating Committee findings and recommendations shall be printed only with the prior approval of the Committee, after an adequate period for review and comment. The printing, as Committee documents, of materials prepared by staff for informational purposes, or the printing of materials not originating with the Committee or staff, shall require prior consultation with the minority staff; these publications shall have the following language printed on the cover of the document: "Note: This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee."

## IX. AMENDMENT OF RULES

The rules of the Committee may be amended or revised at any time, provided that not less than a majority of the Committee present so determine at a Committee meeting preceded by at least 3 days notice of the amendments or revisions proposed.

60TH ANNIVERSARY OF THE  
LIBERATION OF AUSCHWITZ

Mr. SANTORUM. Mr. President, last week marked the 60th anniversary of the liberation of the Auschwitz Concentration Camp in southern Poland. On January 27, 1945, Soviet troops freed the prisoners at Auschwitz, the largest Nazi death camp. During that same period, our American troops were freeing prisoners at other death camps.

This year, the world noted the significance of this anniversary. On Monday, at the request of the United States, Canada, the European Union, Australia, New Zealand, and Russia, the United Nations held the first-ever General Assembly commemoration of the World War II Holocaust. Six million Jews were murdered during the Holocaust, including two-thirds of European Jews.

As we remember the many who suffered and died at Auschwitz and at the other concentration camps, we must not forget the lessons of the past. These awful events revealed what people can do to one another, and we can never forget what happened only 60 short years ago. In not forgetting, we must be careful that this form of genocide is never repeated. Even now, in too many countries, anti-Semitism is on the rise. The State Department recently released a report indicating it is gaining momentum in Europe and the Middle East. In a Wall Street Journal commentary, author Adam Zagajewski stated that there is "a solid, murky stratum of anti-Semitism more and more perceptible in different European countries." The world must respond to this threat—before it is too late.

Here in the United States, we have always recognized the importance of religious freedom. Religious freedom is more than just religious tolerance—it is religious pluralism. We must not err on either extreme—either to impose one religion on all peoples or, what some would like to see in this country,

to banish all expression of religion from the public square. Rather, we should welcome all religions and expressions of faith. This is the right on which our country was founded, and we must continue to allow people to worship as they please and freely live out their faith as good citizens.

In his well-known 1790 letter to the Newport Hebrew Congregation, President George Washington wrote, "The Citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy: a policy worthy of imitation. All possess a like liberty of conscience and immunities of citizenship. It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights. For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support."

This country has a history of encouraging faith. In 1948, as the Jewish community in Munich was still rebuilding after the end of World War II, local rabbis asked the United States Armed Forces for assistance in obtaining copies of the Talmud. The Nazis had tried to destroy all the copies of the Talmud during World War II and only a precious few were left to study. When requested by the local rabbis, the United States Armed Forces responded, and helped to publish 19 volumes of the Talmud for the use of the community, recognizing the great importance of the Talmud to rebuilding the displaced Jewish community in that region. The title page of the first volume of that new Talmud edition stated that it was published "with the aid of the American Military Command and the American Jewish Joint Distribution Committee in Germany." It was dedicated to the "United States Army," which provided the opportunity and the means for its publication. In this example, the United States Army reached out to help displaced persons, who had faced such terrible struggles to survive, to rebuild the community in that land, and it did so by encouraging their faith.

In like manner, we should encourage people to live out their faith, for it is faith that teaches us to respect the lives of those around us, to love our neighbors, and to care for one another. True religious freedom and pluralism does not mean that we will agree with our neighbor on our faith beliefs, but it does mean that we will fight for the right of our neighbor to freely believe what he or she thinks best.

Banishing religion from the public square will not result in respect for all but, rather, respect for a few. Ensuring that everyone is free to practice one's faith in one's own way is the correct way to build a culture that is respectful of differences and mindful of the



needs of others. It is the way to ensure that Auschwitz, Buchenwald, and the other death camps are never repeated in other areas of the world.

#### COSPONSORSHIP OF S. 187

Mr. CORZINE. Mr. President, I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor of S. 187, the Ensuring College Access for All Americans Act.

I would like to note for the RECORD that Senator FEINSTEIN should appear as an original cosponsor of S. 187. As a result of an administrative error by my office, she was not added to the bill when it was introduced.

#### CONFIRMATION OF MICHAEL O. LEAVITT TO BE SECRETARY OF HEALTH AND HUMAN SERVICES

Mrs. FEINSTEIN. Mr. President, I support the nomination of Governor Michael O. Leavitt to be U.S. Secretary of Health and Human Services.

Governor Leavitt has had a lengthy career in public service, having served most recently as the 10th Administrator of the United States Environmental Protection Agency.

In 1992, Leavitt was elected the 14th Governor of Utah and was that State's longest-serving Governor.

During his three terms as Utah's Governor, he was chosen by the Nation's Governors to represent States in working with Congress on welfare reform, Medicaid and children's health insurance. He chaired the National Governors Association, the Western Governors Association, the Republican Governors Association and Council of State Governments.

Governor Leavitt established an innovative welfare reform waiver program focused on increasing family income using an approach that emphasized employment and child support, but also addressed initial problems with families in need such as domestic violence, education, training, language barriers, and substance abuse issues to promote sustainable employment.

This year, the HHS Secretary will have the critical task of overseeing the implementation of the first ever drug benefit in Medicare as well as the implementation of several program reauthorizations such as Ryan White, Temporary Assistance for Needy Families, and the State Children's Health Insurance Program, all within an ever-constrained budgetary picture.

As someone who voted for the Medicare Modernization Act, it is my hope that Governor Leavitt will work with me to address some of the weaknesses of the bill in addition to ensuring that the more than 41 million Medicare beneficiaries know about this new benefit in Medicare and its low-income subsidies.

Of greatest concern to me is the cost of prescription drugs. In voting for the Medicare bill, I said on the Senate floor that one of the greatest weak-

nesses of the bill was that it not only did not do enough to control the rising cost of prescription drugs but it specifically prohibited the HHS from using the bulk purchasing power of the Federal Government to negotiate with prescription drug plans to lower drug prices for Medicare beneficiaries. I believe this prohibition should be stricken and that there should be a role for the HHS Secretary in what Medicare and beneficiaries pay for their drugs.

I am committed to working with the HHS Secretary to find real solutions for lowering drug costs for our Nation's seniors.

As the Medicare drug benefit is enacted, I am also hopeful that Governor Leavitt will work to ensure access to all needed medications for people living with HIV and AIDS, to allow for adequate transition time for the most vulnerable low-income seniors and to provide sufficient incentives and transparency for employers to retain their retirees' health care coverage.

Governor Leavitt will oversee the Department of Health and Human Services at a time of rising deficits and this will require tough decisions. But these decisions must be balanced with the needs of the millions of Americans, young and old, who rely on Medicare, Medicaid and SCHIP to provide their health care insurance.

Medicaid provides insurance to 40 million Americans, about 8 million of whom live in California. It covers 55 percent of all poor children and it pays for the births of one-third of all American children. It serves 50 percent of all people with AIDS and as many as 90 percent of children with AIDS.

Medicaid is the insurer of last resort. If Medicaid did not exist, these individuals and families would be uninsured.

But it is also the biggest budget items in many States. There is no question we can improve the efficiency and quality of Medicaid to ensure our dollars are being well-spent but we also cannot lose sight of the fact that increases in spending per enrollee from 2000 until 2003 were slower than increases in private insurance spending.

There are 45 million Americans without health insurance today. Arbitrary limits on Federal Medicaid spending will only increase the number of uninsured, driving up overall health care costs and burdening our nation's already overcrowded emergency rooms.

There is a great deal of work to be done, and I look forward to a productive working relationship with Governor Leavitt.

#### CONFIRMATION OF DR. CONDOLEEZZA RICE TO BE SECRETARY OF STATE OF THE UNITED STATES

Mr. ROCKEFELLER. Mr. President, I have followed closely both the confirmation hearing of Dr. Rice before the Foreign Relations Committee and the floor debate on her nomination. After considerable reflection, I have

decided to vote in favor of Dr. Rice's confirmation, although I must state for the record that I do so with some reservations.

I intend to support her nomination primarily because I believe the foreign policy of the United States must reflect a spirit of bipartisanship. Amidst the complex challenges that we face in the war on terrorism, this country cannot afford enduring divisions on international issues. We must return to common ground, not least so that the rest of the world recognizes our single purpose and our resolve. I should note, parenthetically, that restoring that lost unity depends equally upon the majority party, as upon my party.

Dr. Rice has the credentials to be Secretary of State. As National Security Adviser, she has proven an eloquent advocate for the administration's policies. At her confirmation hearing, she made clear our need for effective diplomatic engagement worldwide. I welcomed that emphasis. Perhaps most importantly, Dr. Rice has the President's utmost confidence—this will, I am certain, be an asset in her dealings with other nations, as well as in working with other agencies in our own Government.

My reservations about Dr. Rice stem not from doubts about her abilities, but rather from my concerns about her role in developing U.S. policy toward Iraq and in characterizing the threats posed by Iraq prior to the conflict. I have concluded that many of the administration's statements on Iraqi weapons, including those of Dr. Rice, were simply not underpinned by the intelligence available. That is troubling, as was Dr. Rice's failure, during the confirmation hearing, to acknowledge that mistakes were made, not only in the conduct of the war and its aftermath, but in the policies that led us into it.

This goes directly to the question of accuracy and accountability—whether this administration will take responsibility for its decisions and learn from the past, so as not to repeat the same errors in future. I believe that the decision to go to war in Iraq was wrong. Nevertheless, despite great skepticism among the American people about Iraq, President Bush was reelected. We must now go forward together to achieve stability in Iraq, to bring our forces home, and to restore American credibility at home and abroad.

The dubious decisions, not the nominee, concern me; however, I will not oppose Dr. Rice because I disagree with the administration's policies. That would not be conducive to the bipartisan foreign policy that I believe is crucial. Rather, I look forward to working with Dr. Rice to forge consensus on a more balanced approach to national security issues.

#### TARIFF RELIEF ASSISTANCE FOR DEVELOPING ECONOMIES ACT

Mrs. FEINSTEIN. Mr. President, I support legislation recently introduced

by myself, Senator SMITH, Senator BAUCUS, and Senator SANTORUM to help some of the world's poorest countries sustain vital export industries and promote economic growth and political stability.

The Tariff Relief Assistance for Developing Economies Act, TRADE, of 2005 will provide duty-free and quota-free benefits for garments and other products similar to those afforded to beneficiary countries under the Africa Growth and Opportunity Act, AGOA. The countries covered by this legislation are the 14 Least Developed Countries, LDCs, as defined by the United Nations and the U.S. State Department, which are not covered by any current U.S. trade preference program: Afghanistan, Bangladesh, Bhutan, Cambodia, Kiribati, Laos, Maldives, Nepal, Samoa, Solomon Islands, East Timor, Tuvalu, Vanuatu, and Yemen. Given the recent tsunami disaster, the bill includes a special emergency trade provision to assist Sri Lanka in its rebuilding efforts.

The beneficiary countries of this legislation are among the poorest countries in the world. Nepal has per capita income of \$240. Unemployment in Bangladesh stands at 40 percent. Approximately 36 percent of Cambodia's population lives below the poverty line. Each country faces critical challenges in the years ahead including poor health care, insufficient educational opportunities, high HIV/AIDS rates, and the effects of war and civil strife. The United States must take a leadership role in providing much-needed assistance to the people of these countries.

Consequently, Senator SMITH and I have worked closely together over the past few years to push for substantial increases in our foreign aid budget. We recognize that helping developing countries rise from poverty is not only a moral obligation, but a key component in our fight against terror. Yet humanitarian and development assistance should not be the sum total of our efforts to put these countries on the road to economic prosperity and political stability. Indeed, the key for sustained growth and rising standards of living will be the ability of each of these countries to create vital export industries to compete in a free and open global marketplace.

We should help these countries help themselves by opening the U.S. market to their exports. Success in that endeavor will ultimately allow these countries to become less dependent on foreign aid and allow the United States to provide assistance to countries in greater need.

The garment industry is a key part of the manufacturing sector in some of these countries. In Nepal, the garment industry is entirely export-oriented and accounts for 40 percent of the foreign exchange earnings. It employs over 100,000 workers—half of them women—and sustains the livelihood of over 350,000 people. The United States

is the largest market for Nepalese garments and accounts for 80 to 90 percent of Nepal's total exports every year. In Cambodia, approximately 250,000 Cambodians work in the garment industry supporting approximately 1 million dependents. The garment industry accounts for more than 90 percent of Cambodia's export earnings. In Bangladesh, the garment industry accounts for 75 percent of export earnings. The industry employs 1.8 million people, 90 percent of whom are women, and sustains the livelihoods of 10 to 15 million people.

Despite the poverty seen in these countries and the importance of the garment industry and the U.S. market, they face some of the highest U.S. tariffs in the world, averaging over 15 percent. In contrast, countries like Japan and our European partners face tariffs that are nearly zero. On top of this, there is increasing concern that the removal of quotas on textile and apparel articles on January 1, 2005, will severely harm their garment export industries in LDC countries as U.S. importers will shift their orders to China, India and other suppliers with cheaper labor markets.

Millions of jobs could be lost, threatening economic growth and political stability. In those countries without a viable garment industry—such as Afghanistan and East Timor—the removal of quotas will severely impact the opportunities to develop industries, employment, and expanded foreign investment.

Surely we can do better. This legislation will help these countries compete in the U.S. market and let their citizens know that Americans are committed to helping them realize a better future for themselves and their families. And the impact on U.S. jobs will be minimal. Currently, the beneficiary countries under this legislation account for only 4 percent of U.S. textile and apparel imports, compared to 24 percent for China, and 72 percent for the rest of the world. These countries will continue to be small players in the U.S. market, but the benefits of this legislation will have a major impact on their export economies.

At a time when U.S. standing is at an alltime low in some countries, we need legislation such as this to show the best of America and American values. It will provide a vital component to our development strategy and add another tool to the war on terror. I urge my colleagues to support this bill.

#### TRIBUTE TO JOANNE BENSON

Mr. COLEMAN. Mr. President, I ask the Senate to join me today in honoring the public life of a Minnesota leader in public affairs and public education, Joanne Benson. Some of us will recognize her as a former lieutenant Governor of Minnesota, or as a Minnesota State Senator. But she is known to hundreds of teachers and children as an educator of distinction, imagina-

tion, and courage. This month marks her retirement as the Chief Education Officer of the Minnesota Business Academy charter high school in our capital city of St. Paul.

Joanne Benson is considered by friends and colleagues to be one of the most conscientious and hardworking women in Minnesota—a considerable distinction. She was born in Le Sueur, an agricultural community, where she learned early the virtue of service to family and community. She and her husband, Robert, are the parents of two accomplished adult children, for whom education is both a cherished value and a professional calling. Her grandchildren are blessed to have the benefit of her loving example and guidance.

Minnesota's historic leadership in education proudly points to Joanne's degree from St. Cloud State University, and her eventual assistant professorship in the University's College of Education. From this service, she went on to become a Minnesota State senator from the St. Cloud region that she calls her home. Her work on behalf of education policy and community safety brought her to the attention of Gov. Arne Carlson, whom she served with distinction as lieutenant Governor from 1995 to 1999.

The State of Minnesota was to have yet greater service from Joanne, when at the end of the Carlson administration she became the president of the nascent Minnesota Business Academy, a business immersion charter high school in downtown St. Paul. MBA serves some of our State's most talented and challenged students. The school is the first in the Nation to be sponsored by a local Chamber of Commerce and is nationally noted for its Star Tracks initiative, teaching and certifying students in the personal traits and behaviors essential to success in the business workplace.

With the people of Minnesota, I ask this Chamber to join in celebrating the life and service of Joanne Benson, a woman of great humor and patience, intelligence and grace, as she takes a well-earned retirement from the profession of education.

#### ADDITIONAL STATEMENTS

##### CHARLES W. SEDGWICK

• Mr. BROWNBACK. Mr. President, Mr. Charles W., Bill, Sedgwick is retiring after more than 40 years of celebrated service with the Food and Drug Administration. His career began on June 7, 1964, as an investigator for the Kansas City district. From beginning to end, Bill sharpened his skills through work performed in a variety of locations; Kansas City, Omaha, Washington DC, Dallas, and Cincinnati. His dream was fulfilled, with the help of countless mentors and friends, as he began as the Kansas City district director in June of 2000.

Highlights of his work include cases involved with filth and quack drugs; instruction presented on Law and Evidence to the Southwest and Southeast Regions; work on criminal cases involving illegal distribution of steroid and other enhancement drugs; work with other Federal agents and the U.S. Attorney to prepare search warrants and collect undercover evidence for presentation to the grand jury; development of significant case laws which permitted not just FDA, but other Federal agencies to charge defendants with defrauding the Government; a commissioner's commendation for critical work performed with State partners to improve FDA's relationship working particularly in Texas and New Mexico; criminal investigative work in Cincinnati that resulted in the indictment, prosecution and prison terms of seven defendants involved in a major criminal enterprise which produced over 200 million pounds of phony orange juice; receipt of the FDA Award of Merit, 2002, and the ORA Quality of Worklife Award, 2003, for his leadership in Kansas City.

After his retirement, Bill intends to spend time with his family, doing anything his wife, Suzanne, tells him to do. He plans to oversee church construction projects, remodel old houses and travel with his wife.●

#### JOE L. TILGHMAN

● Mr. BROWNBACK. Mr. President, Joe Tilghman has served the Centers for Medicare and Medicaid Services, CMS, in a senior field leadership position in a career spanning nearly the entire period of enactment of the Medicare and Medicaid programs. Mr. Tilghman is retiring on January 3, 2005 after 37 years of distinguished Federal service.

Mr. Tilghman assumed leadership of CMS' Kansas City regional office in 1994, following nearly 15 years as the deputy regional administrator. As regional administrator, he has been responsible for the Federal administration of the Medicare and Medicaid programs to approximately 4 million beneficiaries residing in Iowa, Kansas, Missouri and Nebraska. Prior to joining CMS, then the Health Care Financing Administration, in 1978 he worked in Social and Rehabilitative Services and the Bureau of Health Insurance.

During Mr. Tilghman's tenure as regional administrator, he led many CMS efforts that impacted the lives of Medicare and Medicaid beneficiaries nationwide. Of particular note, Mr. Tilghman:

Lead CMS' Flu 2000 Campaign from 1993 to 1999;

Lead CMS' Screening Mammography Campaign from 1999 to the present, exceeding Government Performance and Results Act, GPRA, targets in each of these years;

Established the CMS field National Medicare Education Program, NMEP, operation;

Enforced the Health Insurance Portability and Accountability Act,

HIPAA, insurance provisions nationally in all States that are not in substantial compliance;

Conducted and was personally involved in a credit "CMS 101" course at the University of Kansas, the only one its kind in the Nation; and

Participated in a town hall meeting in Liberty, MO with President Bush to promote the new Medicare prescription drug cards.

In recognition of his many significant contributions, Mr. Tilghman received the Meritorious Executive Rank Award in 2000. This award may be received by only five percent of those persons in career Senior Executive Service, SES.

Mr. Tilghman served his country admirably as an Army pilot in Vietnam where he reached the rank of captain as a fixed wing and helicopter pilot. He married JoAnne Hardy in 1966 and is currently planning many travel adventures with her in his retirement. Mr. and Mrs. Tilghman have two daughters, Stephanie and Abigail, and are the proud grandparents of Ethan and Holly. Mr. Tilghman enjoys reading history books, hiking in the Colorado mountains, white water rafting, canoeing and skiing. He recently fulfilled a life-long dream by climbing to the summit of Mount Kilimanjaro in Africa.●

#### RECOGNIZING THE DAHL ARTS CENTER

● Mr. JOHNSON. Mr. President, today I wish to recognize the Dahl Arts Center in Rapid City, SD for all that it does to expand access to the arts and theatre to the entire Rapid City region. This corner stone of the Rapid City community has cultivated contemporary visual arts, community theater, and arts education since 1974, when Mr. and Mrs. Art Dahl bequeathed a generous gift to the Rapid City Arts Council. Not only has the Dahl Arts Center provided a forum for South Dakota artists to display their works and talents, but the center's free art galleries and art education classrooms provide the Rapid City community and its visitors the opportunity access our shared artistic heritage.

The Dahl Arts Center is one of a dozen free attractions on Rapid City's Star Tour. The Center also houses a 200 foot oil-on-canvas mural painted by Bernard P. Thomas. This cycloramic mural depicts 200 years of American history and is enhanced by a taped narration and special lighting effects. A large special viewing room was built to house this epic creation and has become a great attraction for visitors of all ages. The Dahl also houses two galleries that feature paintings, crafts, sculptures and original prints selected from the works of regional artists. For the past 30 years, the Dahl has been a wonderful venue to enjoy a variety of art works from people of all ages and talents.

I am very pleased that Rapid City has partnered with the Dahl Arts Cen-

ter to expand this facility, double the seating capacity in its performance theater, expand space for education, rehearsals and meetings, create a children's education gallery and library, and provide climate-controlled space for the Dahl's permanent collection. Rapid City's generous financial commitments combined with the \$2 million in private donations and pledges that have been collected thus far provide the bulk of the funding required for the Dahl Arts Center's expansion. I was pleased to work with my colleagues in the Senate to secure Federal funding of \$250,000 to assist in the expansion effort of the Dahl Arts Center. When completed, this addition will ensure that the Dahl Arts Center will continue to serve as a cultural arts center for generations to come. All of South Dakota benefits from the continued growth of the Dahl Arts Center and its excellent programs.●

#### HONORING THE FISHBACK FAMILY

● Mr. JOHNSON. Mr. President, I am proud to rise today to commend the Fishback family of Brookings, SD for its outstanding support of the arts. Van Fishback, who serves as president of the recently renamed First Bank and Trust in Brookings, and Robert Fishback, who serves as bank chairman of the board, have demonstrated their leadership in this area by helping to cultivate music and the performing arts in Brookings and the South Dakota State University community.

First Bank and Trust and the Fishback family were recently recognized by the State of South Dakota for their contributions when they were selected as recipients of the 2005 Governor's Award for Outstanding Support of the Arts by an Organization or Business. This award recognizes the outstanding commitment to the arts demonstrated by the Fishback family, without whom the Performing Arts Center on the SDSU campus, the State University Theatre at SDSU and the Brookings Area Community Band might not exist.

The personal contributions of Van and his wife Barbara, as well as Robert and his wife Pat, are notable for their longstanding personal involvement in numerous organizations that promote theater, music and historic preservation in Brookings. Particularly in a university town such as Brookings, the Fishback family's generosity and vision serve as an inspiration for many of South Dakota's promising young students, as well as patrons of the arts. The quality of life in all of South Dakota has been greatly enhanced by the Fishback family's commitment to excellence in the arts, and I thank them and their colleagues at the First Bank and Trust for their extraordinary leadership.●

### CONGRATULATING CAMPBELLSVILLE UNIVERSITY

• Mr. BUNNING. Mr. President, today I wish to congratulate Campbellsville University on receiving a \$1 million challenge grant from the Kresge Foundation. This school merits the grant through the strengths of its teachers, the board of trustees, the administration and its student life.

Campbellsville University, a small private college of a little over 2,000 students, is situated in South Central Kentucky and affiliated with the Kentucky Baptist Convention. Its record of superb education has given it a place in *U.S. News and World Report's*, "America's Best Colleges" guide for 12 consecutive years. The Kresge Foundation cited the quality of the school's faculty, growing popularity, excellent facilities, fiscal responsibility, and effective leadership as determinants in the selection process.

A challenge grant is rewarded on the condition that the recipient will raise a certain amount of its own funds before receiving grant money. The Kresge Foundation requests that the University raise nearly \$7 million before October 1, 2005 to be awarded the grant. I have no doubt that Campbellsville University will meet the challenge in the way that it has met all others: on time, on target, and with the money.

In considering the effort Campbellsville University puts into educating the future of America, I heartily agree with the Kresge Foundation that they deserve this grant. •

### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERTS, from the Select Committee on Intelligence, without amendment:  
S. Res. 22. An original resolution authorizing expenditures by the Select Committee on Intelligence.

By Mr. SMITH, from the Special Committee on Aging, without amendment:

S. Res. 23. An original resolution authorizing expenditures by the Special Committee on Aging.

By Mr. GREGG, from the Committee on the Budget, without amendment:

S. Res. 24. An original resolution authorizing expenditures by the Committee on the Budget.

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. Res. 25. An original resolution authorizing expenditures by the Committee on Finance.

### 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. STEVENS:

S. 201. A bill for the relief of Katarina Galovic Gnull; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 202. A bill for the relief of Gustav F.K. Wallner; to the Committee on the Judiciary.

By Mr. THOMAS:

S. 203. A bill to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. 204. A bill to establish the Atchafalaya National Heritage Area in the State of Louisiana; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. 205. A bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself, Mr. CRAIG, Mrs. MURRAY, and Mr. SMITH):

S. 206. A bill to designate the Ice Age Floods National Geologic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. 207. A bill to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Mr. DEWINE, Ms. STABENOW, and Mr. VOINOVICH):

S. 208. A bill to amend the Federal Water Pollution Control Act to direct the Great Lakes National Program Office of the Environmental Protection Agency to develop, implement, monitor, and report on a series of indicators of water quality and related environmental factors in the Great Lakes; to the Committee on Environment and Public Works.

By Mr. LUGAR (for himself, Mr. BIDEN, and Mr. HAGEL):

S. 209. A bill to build operational readiness in civilian agencies, and for other purposes; to the Committee on Foreign Relations.

By Mr. COBURN:

S. 210. A bill for the relief of Renato Rosetti; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself, Mrs. DOLE, Mr. NELSON of Nebraska, Mr. BURR, Ms. STABENOW, Mr. HAGEL, Ms. CANTWELL, Mr. LUGAR, Mr. NELSON of Florida, Mr. COLEMAN, Mr. LAUTENBERG, Mr. LEVIN, Ms. LANDRIEU, Mrs. MURRAY, Mrs. BOXER, Mr. BAYH, Mr. INOUE, and Mr. BENNETT):

S. 211. A bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 212. A bill to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes; to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 213. A bill to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. KYL):

S. 214. A bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUE:

S. 215. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

By Mr. INOUE:

S. 216. A bill for the relief of the Pottawatomie Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. NELSON of Nebraska, Ms. COLLINS, Mr. ROCKEFELLER, Mr. HARKIN, Mr. GRASSLEY, Mr. JEFFORDS, Mr. SCHUMER, Mr. LEAHY, Mrs. CLINTON, Mr. PRYOR, Mr. LEVIN, and Mr. SPECTER):

S. 217. A bill to amend title 49, United States Code, to preserve the essential air service program; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL:

S. 218. A bill to amend the Food Security Act of 1985 to provide incentives to landowners to protect and improve streams and riparian habitat; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 219. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to protect the retirement security of American workers by ensuring that pension assets are adequately diversified and by providing workers with adequate access to, and information about, their pension plans, and for other purposes; to the Committee on Finance.

By Mr. LEVIN:

S. 220. A bill for the relief of Mohamad Derani, Maha Felo Derani, and Tarek Derani; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 221. A bill for the relief of Luay Lufti Hadad; to the Committee on the Judiciary.

By Ms. STABENOW (for herself, Mr. KENNEDY, Mrs. BOXER, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. DAYTON, and Mr. CORZINE):

S. 222. A bill to amend title XVIII of the Social Security Act to stabilize the amount of the medicare part B premium; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. KERRY, Mr. LEVIN, Mr. DAYTON, Mrs. MURRAY, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. DODD, Mr. LEAHY, Mr. ROCKEFELLER, and Mr. SARBANES):

S. 223. A bill to amend the Fair Labor Standards Act of 1938 to repeal any weakening of overtime protections and to avoid future loss of overtime protections due to inflation; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBERTS:

S. Res. 22. An original resolution authorizing expenditures by the Select Committee on Intelligence; from the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. SMITH:

S. Res. 23. An original resolution authorizing expenditures by the Special Committee on Aging; from the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. GREGG:

S. Res. 24. An original resolution authorizing expenditures by the Committee on the Budget; from the Committee on the Budget; to the Committee on Rules and Administration.

By Mr. GRASSLEY:

S. Res. 25. An original resolution authorizing expenditures by the Committee on Finance; from the Committee on Finance; to the Committee on Rules and Administration.

By Mr. LUGAR:

S. Res. 26. A resolution commending the people of Iraq on the election held on January 30, 2005, of a 275-member transitional National Assembly and of provincial and regional governments and encouraging further steps toward establishment of a free, democratic, secure, and prosperous Iraq; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 5

At the request of Mr. GRASSLEY, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 5, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 8

At the request of Mr. ENSIGN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 8, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 11

At the request of Mr. KOHL, his name was added as a cosponsor of S. 11, a bill to amend title 10, United States Code, to ensure that the strength of the Armed Forces and the protections and benefits for members of the Armed Forces and their families are adequate for keeping the commitment of the people of the United States to support their service members, and for other purposes.

S. 13

At the request of Mr. KOHL, his name was added as a cosponsor of S. 13, a bill to amend titles 10 and 38, United States Code, to expand and enhance health care, mental health, transition, and disability benefits for veterans, and for other purposes.

S. 14

At the request of Ms. STABENOW, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 14, a bill to provide fair wages for America's workers, to create new jobs through investment in America, to provide for fair trade and competitiveness, and for other purposes.

S. 15

At the request of Mr. REID, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 15, a bill to improve education for all students, and for other purposes.

S. 16

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 16, a bill to reduce the cost of quality health care coverage and improve the availability of health care coverage for all Americans.

S. 18

At the request of Mr. DAYTON, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from South Dakota (Mr. JOHNSON) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 18, a bill to amend title XVIII of the Social Security Act to make improvements to the medicare program for beneficiaries.

S. 19

At the request of Mr. CONRAD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 19, a bill to reduce budget deficits by restoring budget enforcement and strengthening fiscal responsibility.

S. 27

At the request of Mrs. HUTCHISON, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 27, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction of State and local general sales taxes.

S. 33

At the request of Ms. CANTWELL, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 33, a bill to prohibit energy market manipulation.

S. 37

At the request of Mrs. HUTCHISON, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

At the request of Mrs. FEINSTEIN, the names of the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 37, *supra*.

S. 38

At the request of Mrs. MURRAY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 38, a bill to enhance and improve benefits for members of the National Guard and Reserves who serve extended periods on active duty, and for other purposes.

S. 42

At the request of Mr. ALLEN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 42, a bill to amend title 10, United States Code, to increase the death gratuity payable with respect to deceased members of the Armed Forces, and for other purposes.

S. 50

At the request of Mr. INOUE, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 50, a bill to authorize and strengthen the National Oceanic and Atmospheric Administration's tsunami detection, forecast, warning, and mitigation program, and for other purposes.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 78

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 78, a bill to make permanent marriage penalty relief.

S. 98

At the request of Mr. ALLARD, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 103

At the request of Mr. TALENT, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 105

At the request of Mr. TALENT, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 105, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

S. 117

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 117, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 119

At the request of Mrs. FEINSTEIN, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from New

Mexico (Mr. BINGAMAN) were added as cosponsors of S. 119, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 168

At the request of Mr. BINGAMAN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 168, a bill to reauthorize additional contract authority for States with Indian reservations.

S. 186

At the request of Mr. ALLARD, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Oregon (Mr. WYDEN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 186, a bill to prohibit the use of Department of Defense funds for any study related to the transportation of chemical munitions across State lines.

S. 187

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 187, a bill to limit the applicability of the annual updates to the allowance for States and other taxes in the tables used in the Federal Needs Analysis Methodology for the award year 2005–2006, published in the Federal Register on December 23, 2004.

S. CON. RES. 7

At the request of Mr. CORZINE, his name was added as a cosponsor of S. Con. Res. 7, a concurrent resolution congratulating the people of Ukraine for conducting a democratic, transparent, and fair runoff presidential election on December 26, 2004, and congratulating Viktor Yushchenko on his election as President of Ukraine and his commitment to democracy and reform.

S. RES. 18

At the request of Mr. CORZINE, his name was added as a cosponsor of S. Res. 18, a resolution commemorating the 60th anniversary of the liberation of the Auschwitz extermination camp in Poland.

At the request of Mr. TALENT, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. Res. 18, *supra*.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS:

S. 203. A bill to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, I rise today to introduce the “Soda Ash Royalty Reduction Act of 2005,” a bill to limit the Federal royalty on soda ash. This legislation, if passed, will put people back to work in my State and address the important issue of maintaining a strong and financially sound manufacturing base in this country. It will keep jobs in America and give

workers a fighting chance to compete globally.

The State of Wyoming accounts for 85 percent of the natural soda ash produced in the United States. The health of the domestic soda ash industry is now at issue. This legislation goes a long way towards assisting the domestic industry to be competitive on a global basis.

The bill reduces an excessive tax on natural American soda ash; a tax that is significantly impairing the ability of U.S. exported soda ash to compete in important global markets; a tax that has helped create 30 percent decline in employment in this industry in Wyoming since 1997. The current 6 percent royalty on each ton of domestically produced soda ash was imposed in 1995 at a time when our exports of this important commodity, primarily used in the manufacture of glass were rising to record levels. It was a windfall tax that recognized the industry’s significant expansion.

Over the last decade, export growth has been severely impacted, as several trading partners erected various barriers to U.S. soda ash, often to protect their own less efficient domestic producers. One of the most aggressive countries has been China. As recently as 1990, China imported over one million tons of soda ash annually from the U.S. Today, China exports two million tons from plants that produce a synthetic grade of this important commodity.

The Chinese produce soda ash in far less efficient factories with limited attention to environmental or safety concerns. The average wage of a Chinese worker in these plants is less than \$5 a day. By contrast Wyoming soda ash workers can earn on average \$35 an hour. Chinese soda ash producers, which are largely state owned, also benefit from direct and indirect forms of state support, as well as the benefits of a fixed exchange rate. As a result of these actions, China has supplanted the United States as the world’s largest exporter of soda ash.

Wyoming soda ash producers remain the most efficient in the world and have been constantly improving their productivity over the last several years. It is an industry that is reinventing itself to meet the demands of fierce global competition.

My legislation restores the original royalty the Federal Government imposed on soda ash in the Mineral Leasing Act of 1920. That act set a 2 percent royalty on soda ash mined on Federal leases. We would temporarily resume that royalty rate consistent with the Federal Land Policy and Management Act of 1976 that requires the Secretary of the Interior to receive “fair market value” for the use of public lands and their resources. In other words, the legislation simply adjusts what was a windfall tax back to its original level.

The legislation is overdue and keeps our Nation’s commitment to U.S. based manufacturing and jobs. The U.S. soda

ash industry has been a good partner with the Federal Government, providing additional revenue when business was flourishing. Now that the industry is fighting for its survival, the Federal Government has the opportunity to be a responsible partner and ease its tax burden so it can survive and provide the thousands of jobs that are so important to my State.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. 204. A bill to establish the Atchafalaya National Heritage Area in the State of Louisiana; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, today I rise, along with Senator VITTER, to introduce a bill to establish the Atchafalaya National Heritage Area in Louisiana. This legislation has particularly special meaning to those of us from Louisiana because of the importance of the cultural and natural resources of the Atchafalaya region to the Nation. It would establish a framework to help protect, conserve, and promote these unique natural, cultural, historical, and recreational resources of the region.

This legislation, which has been passed by the full Senate 3 times, once during the 107th Congress and twice during the 108th Congress, would establish a framework to help protect, conserve, and promote these unique natural, cultural, historical, and recreational resources of the region.

Specifically, the legislation would establish a National Heritage Area in Louisiana that encompasses thirteen parishes in and around the Atchafalaya Basin swamp, America’s largest river swamp. The heritage area in south-central Louisiana stretches from Concordia parish to the north, where the Mississippi River begins to partially flow into the Atchafalaya River, all the way to the Gulf of Mexico in the south. The thirteen parishes are: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge. This boundary is the same area covered by the existing Atchafalaya Trace State Heritage Area.

This measure will appoint the existing Atchafalaya Trace Commission as the federally recognized “local coordinating entity.” The commission is composed of thirteen members with one representative appointed by each parish in the heritage area. Both the Atchafalaya Trace Commission and the Atchafalaya Trace State Heritage Area were created by the Louisiana Legislature a number of years ago. The Atchafalaya Trace State Heritage Area program currently receives some State funding, and already has staff working at the Louisiana Department of Culture, Recreation & Tourism, DCRT, under Lieutenant Governor Kathleen Blanco. State funds were used to create



the management plan for the heritage area, which followed "feasibility analysis" guidelines as recommended by the National Park Service. Therefore, the recently-completed management plan need only be submitted to the Secretary of the Interior for approval as this legislation would recognize an existing local coordinating entity that will oversee the implementation of this plan. We are very proud that this state heritage area has already completed the complicated planning process, with participation of local National Park Service representatives, while using a standard of planning quality equal to that of existing national heritage areas. All at no cost to the Federal Government.

Please let me also emphasize that this legislation protects existing private property rights. It will not interfere with local land use ordinances or regulations, as it is specifically prohibited from doing so. Nor does this legislation grant any powers of real property acquisition to the local coordinating entity or heritage area program. In addition, the legislation does not impose any environmental rule or process or cause any change in Federal environmental quality standards different from those already in effect.

Heritage areas are based on cooperation and collaboration at all levels. This legislation remains true to the core concept behind heritage areas. The heritage area concept has been used successfully in various parts of our Nation to promote historic preservation, natural and cultural resource protection, heritage tourism and sustainable economic revitalization for both urban and rural areas. Heritage areas provide a flexible framework for government agencies, private organizations and businesses and landowners to work together on a coordinated regional basis. The Atchafalaya National Heritage Area will join the Cane River National Heritage Area to become the second National Heritage Area in Louisiana, ultimately joining the 23 existing National Heritage Areas around the Nation.

The initiative to develop the Atchafalaya National Heritage Area is an outgrowth of a grassroots effort to achieve multiple goals of this region. Most important among these is providing opportunities for the future, while at the same time not losing anything that makes this place so special. Residents from all over the region, local tourism agencies, State agencies such as the DCRT and the Department of Natural Resources, the State legislature, Federal agencies including the National Park Service and U.S. Army Corps of Engineers, parish governments, conservation and preservation groups, local businesses and local landowners have all participated in this endeavor to make it the strong initiative it is today. These groups have been very supportive of the heritage area effort, and as time moves on, the heritage area will continue to involve more

and more of the area's most important resource, its people.

I would also like to give you a brief overview of the resources that make this place significant to the entire country. Not only is it important to our Nation's history, but it is also critical to understanding America's future. The name of the place itself, Atchafalaya, comes from the American Indians and means "long river." This name signifies the first settlers of the region, descendants of whom still live there today.

Other words come to mind in describing the Atchafalaya: mysterious, dynamic, multi-cultural, enchanting, bountiful, threatened and undiscovered. This region is one of the most complex and least understood places in Louisiana and the Nation. Yet, the stories of the Atchafalaya Heritage Area are emblematic of the broader American experience. Here there are opportunities to understand and witness the complicated, sometimes harmonious, sometimes adversarial interplay between nature and culture. The history of the United States has been shaped by the complex dance of its people working with, against, and for, nature. Within the Atchafalaya a penchant for adventure, adaptation, ingenuity, and exploitation has created a cultural legacy unlike anywhere else in the world.

The heart of the heritage area is the Atchafalaya Basin. It is the largest river swamp in the United States, larger than the more widely known Everglades or Okefenokee Swamp. The Atchafalaya is characterized by a maze of streams, and at one time was thickly forested with old-growth cypress and tupelo trees. The Basin provides outstanding habitat for a remarkably diverse array of wildlife, including the endangered American bald eagle and Louisiana black bear. The region's unique ecology teems with life. More than 85 species of fish; crustaceans, such as crawfish; wildlife, including alligators; an astonishing array of well over 200 species of birds, from waterfowl to songbirds; forest-dwelling mammals such as deer, squirrel, beaver and other commercially important furbearers all make their home here. Bottomland hardwood-dependent bird species breed here in some of the highest densities ever recorded in annual North American Breeding Bird Surveys. The Basin also forms part of the Mississippi Valley Flyway for migratory waterfowl and is a major wintering ground for thousands of these geese and ducks. In general, the Atchafalaya Basin has a significant proportion of North America's breeding wading birds, such as herons, egrets, ibises, and spoonbills. Some of the largest flocks of Wood Storks in North America summer here, and the southern part of the Basin has a healthy population of Bald Eagles nesting every winter.

The region's dynamic system of waterways, geology, and massive earthen guide levees reveals a landscape that is

at once fragile and awesome. The geology and natural systems of the Atchafalaya Heritage Area have fueled the economy of the region for centuries. For decades the harvest of cypress, cotton, sugar cane, crawfish, salt, oil, gas, and Spanish moss, have been important sources of income for the region's residents. The crawfish industry has been particularly important to the lives of Atchafalaya residents and Louisiana has become the largest crawfish producer in the United States. Sport fishing and other forms of commercial fishing are important here, too, but unfortunately, natural resource extraction and a changing environment have drastically depleted many of these resources and forced residents to find new ways to make a living.

Over the past century, the Atchafalaya Basin has become a study of man's monumental effort to control nature. After the catastrophic Mississippi River flood of 1927 left thousands dead and millions displaced, the U.S. Congress decreed that the U.S. Army Corps of Engineers should develop an intricate system of levees to protect human settlements, particularly New Orleans. Today, the Mississippi River is caged within the walls of earthen and concrete levees and manipulated with a complex system of locks, barrages and floodgates. The Atchafalaya River runs parallel to the Mississippi and through the center of the Basin. In times of flooding the river basin serves as the key floodway in controlling floodwaters headed for the large population centers of Baton Rouge and New Orleans by diverting water from the Mississippi River to the Gulf of Mexico. This system was sorely tested in 1973 when floodwaters threatened to break through the floodgates and permanently divert the Mississippi River into the Atchafalaya. However, after this massive flood event, new land started forming off the coast. These new land formations make up the Atchafalaya Delta, and is the only significant area of new land being built in the United States. These vast amounts of Mississippi River sediment are also rapidly filling in the Basin itself, raising the level of land in certain areas of the basin and filling in lakes and waterways. And to demonstrate just how complex this ecosystem is, one only needs to realize that just to the East of the Delta, Terrebonne parish, also in the heritage area, is experiencing some of the most significant coastal land loss in the country.

Over the centuries, the ever-changing natural environment has shaped the lives of the people living in the Basin. Residents have profited from and been imperiled by nature. The popular cultural identity of the region is strongly associated with the Cajuns, descendants of the French-speaking Acadians who settled in south Louisiana after being deported by the British from Nova Scotia, formerly known as Acadia. Twenty-five hundred to three



thousand exiled Acadians repatriated in Louisiana where they proceeded to re-establish their former society. Today, in spite of complex social, cultural, and demographic transformations, Cajuns maintain a sense of group identity and continue to display a distinctive set of cultural expressions nearly 250 years after their exile from Acadia. Cajun culture has become increasingly popular outside of Louisiana. Culinary specialties adapted from France and Acadia such as etouffee, boudin, andouille, crepes, beignets and sauces thickened with roux, delight food lovers well beyond Louisiana's borders. Cajun music has also "gone mainstream" with its blend of French folk songs and ballads and instrumental dance music, and more recently popular country, rhythm-and-blues, and rock music influences. While the growing interest in Cajun culture has raised appreciation for its unique traditions, many of the region's residents are concerned about the growing commercialization and stereotyping that threatens to diminish the authentic Cajun ways of life.

While the Atchafalaya Heritage Area may be well known for its Cajun culture, there is an astonishing array of other cultures within these parishes. Outside of New Orleans, the Atchafalaya Heritage Area is the most racially and ethnically complex region of Louisiana, and has been so for many years. A long legacy of multiculturalism presents interesting opportunities to examine how so many distinct cultures have survived in relative harmony. There may be interesting lessons to learn from here as our Nation becomes increasingly heterogeneous. The cultural complexity of this region has created a rich tapestry of history and traditions, evidenced by the architecture, music, language, food and festivals unlike any place else. Ethnic groups of the Atchafalaya include: African-Americans, Black Creoles, Asians, Chinese, Filipinos, Vietnamese, Lebanese, Cajuns, Spanish Islenos, Italians, Scotch-Irish, and American Indian tribes such as the Attakapa, Chitimacha, Coushatta, Houma, Opelousa and Tunica-Biloxi.

This heritage area has a wealth of existing cultural, historic, natural, scenic, recreational and visitor resources on which to build. Scenic resources include numerous State Wildlife Management Areas and National Wildlife Refuges, as well as ten designated state scenic byways that fall partially or entirely within the heritage area. The Office of State Parks operates three historic sites in the heritage area, and numerous historic districts and buildings can be found in the region. There are also nine Main Street communities in the heritage area. Outdoor recreational resources include two State Parks and a multitude of waterways and bayous. Hunting, fishing, boating, and canoeing, and more recently birdwatching and cycling, are popular ways to experience the region. Various visitor at-

tractions, interpretive centers and visitor information centers exist to help residents and tourists alike better understand and navigate many of the resources in the heritage area. Major roads link the heritage area's central visitor entrance points and large population centers, especially New Orleans. Much of the hospitality industry servicing the Atchafalaya exists around the larger cities of Baton Rouge, Lafayette and Houma. However, more and more bed and breakfasts and heritage accommodations, such as houseboat rentals, are becoming more numerous in the smaller towns and rural areas.

These are just some of the examples of the richness and significance of this region. This legislation will assist communities throughout this heritage area who are committed to the conservation and appropriate development of these assets. Furthermore, this legislation will bring a level of prestige and national and international recognition that this most special of places certainly deserves.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 204

*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 "Atchafalaya National Heritage Area Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **HERITAGE AREA.**—The term "Heritage Area" means the Atchafalaya National Heritage Area established by section 3(a).

(2) **LOCAL COORDINATING ENTITY.**—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 3(c).

(3) **MANAGEMENT PLAN.**—The term "management plan" means the management plan for the Heritage Area developed under section 5.

(4) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(5) **STATE.**—The term "State" means the State of Louisiana.

#### SEC. 3. ATCHAFALAYA NATIONAL HERITAGE AREA.

(a) **ESTABLISHMENT.**—There is established in the State the Atchafalaya National Heritage Area.

(b) **BOUNDARIES.**—The Heritage Area shall consist of the whole of the following parishes in the State: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge.

(c) **LOCAL COORDINATING ENTITY.**—

(1) **IN GENERAL.**—The Atchafalaya Trace Commission shall be the local coordinating entity for the Heritage Area.

(2) **COMPOSITION.**—The local coordinating entity shall be composed of 13 members appointed by the governing authority of each parish within the Heritage Area.

#### SEC. 4. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) **AUTHORITIES.**—For the purposes of developing and implementing the management plan and otherwise carrying out this Act, the local coordinating entity may—

- (1) make grants to, and enter into cooperative agreements with, the State, units of local government, and private organizations;
- (2) hire and compensate staff; and
- (3) enter into contracts for goods and services.

(b) **DUTIES.**—The local coordinating entity shall—

(1) submit to the Secretary for approval a management plan;

(2) implement the management plan, including providing assistance to units of government and others in—

(A) carrying out programs that recognize important resource values within the Heritage Area;

(B) encouraging sustainable economic development within the Heritage Area;

(C) establishing and maintaining interpretive sites within the Heritage Area; and

(D) increasing public awareness of, and appreciation for the natural, historic, and cultural resources of, the Heritage Area;

(3) adopt bylaws governing the conduct of the local coordinating entity; and

(4) for any year for which Federal funds are received under this Act, submit to the Secretary a report that describes, for the year—

(A) the accomplishments of the local coordinating entity; and

(B) the expenses and income of the local coordinating entity.

(c) **ACQUISITION OF REAL PROPERTY.**—The local coordinating entity shall not use Federal funds received under this Act to acquire real property or an interest in real property.

(d) **PUBLIC MEETINGS.**—The local coordinating entity shall conduct public meetings at least quarterly.

#### SEC. 5. MANAGEMENT PLAN.

(a) **IN GENERAL.**—The local coordinating entity shall develop a management plan for the Heritage Area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, scenic, cultural, historic, and recreational resources of the Heritage Area.

(b) **CONSIDERATION OF OTHER PLANS AND ACTIONS.**—In developing the management plan, the local coordinating entity shall—

(1) take into consideration State and local plans; and

(2) invite the participation of residents, public agencies, and private organizations in the Heritage Area.

(c) **CONTENTS.**—The management plan shall include—

(1) an inventory of the resources in the Heritage Area, including—

(A) a list of property in the Heritage Area that—

(i) relates to the purposes of the Heritage Area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the Heritage Area;

(2) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with this Act;

(3) an interpretation plan for the Heritage Area; and

(4) a program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the Heritage Area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(d) **SUBMISSION TO SECRETARY FOR APPROVAL.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the local coordinating entity shall submit the

management plan to the Secretary for approval.

(2) **EFFECT OF FAILURE TO SUBMIT.**—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this Act until a management plan for the Heritage Area is submitted to the Secretary.

(e) **APPROVAL.**—

(1) **IN GENERAL.**—Not later than 90 days after receiving the management plan submitted under subsection (d)(1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) **ACTION FOLLOWING DISAPPROVAL.**—

(A) **IN GENERAL.**—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) **DEADLINE FOR APPROVAL OF REVISION.**—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(f) **REVISION.**—

(1) **IN GENERAL.**—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) **EXPENDITURE OF FUNDS.**—No funds made available under this title shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

## **SEC. 6. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.**

(a) **NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.**—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent to the management entity for such preservation, conservation, or promotion.

(b) **LANDOWNER WITHDRAW.**—Any owner of private property included within the boundary of the Heritage Area shall have that private property immediately removed from the boundary by submitting a written request to the management entity.

## **SEC. 7. PRIVATE PROPERTY PROTECTION.**

(a) **ACCESS TO PRIVATE PROPERTY.**—Nothing in this Act shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) **LIABILITY.**—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on that private property.

(c) **PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.**—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

## **SEC. 8. EFFECT OF ACT.**

Nothing in this Act or in establishment of the Heritage Area—

(1) grants any Federal agency regulatory authority over any interest in the Heritage Area, unless cooperatively agreed on by all involved parties;

(2) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act;

(3) grants any power of zoning or land use to the local coordinating entity;

(4) imposes any environmental, occupational, safety, or other rule, standard, or permitting process that is different from those in effect on the date of enactment of this Act that would be applicable had the Heritage Area not been established;

(5)(A) imposes any change in Federal environmental quality standards; or

(B) authorizes designation of any portion of the Heritage Area that is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) as class 1 for the purposes of that part solely by reason of the establishment of the Heritage Area;

(6) authorizes any Federal or State agency to impose more restrictive water use designations, or water quality standards on uses of or discharges to, waters of the United States or waters of the State within or adjacent to the Heritage Area solely by reason of the establishment of the Heritage Area;

(7) abridges, restricts, or alters any applicable rule, standard, or review procedure for permitting of facilities within or adjacent to the Heritage Area; or

(8) affects the continuing use and operation, where located on the date of enactment of this Act, of any public utility or common carrier.

## **SEC. 9. REPORTS.**

For any year in which Federal funds have been made available under this Act, the local coordinating entity shall submit to the Secretary a report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

## **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this Act \$10,000,000, of which not more than \$1,000,000 shall be made available for any fiscal year.

(b) **COST-SHARING REQUIREMENT.**—The Federal share of the total cost of any activity assisted under this Act shall be not more than 50 percent.

## **SEC. 11. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance to the local coordinating entity under this Act terminates on the date that is 15 years after the date of enactment of this Act.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. 205. A bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, One Hundred and Thirty Nine years ago, before the term Homeland Security was even coined, a group of men devoted themselves to securing the frontiers of this Nation. They protected Americans in their homes; they deterred hostile invaders, and they secured the bless-

ings of liberty for a young country. Even more remarkable, they secured these blessings for others, while they could not fully enjoy them themselves.

I am referring to the Buffalo Soldiers. These brave men instituted a tradition of professional military service for African Americans that spans the greater part of American history. African American military service is as old as our nation. There were black soldiers during the revolution, a unit of free black men played a pivotal role in the Battle of New Orleans, and the exploits of African Americans during the Civil War have been captured in novels and on film. However, it was not until the Army Reorganization Act of 1866 that soldiering and service to country became a realistic option for African Americans seeking to improve their quality of life. In so doing, they raised the bar of freedom, and revealed the injustice of preventing the defenders of democracy from fully participating in it.

The City of New Orleans, and the State of Louisiana have a rich history. They have given more than their fair share of sons to the service of our Nation. Much of this history is commemorated throughout the State. Yet, these great sons of New Orleans remain unacknowledged in their home. For in Louisiana's great military tradition, surely one of its greatest military contributions were the 9th Cavalry Regiment and the 25th Infantry Regiment.

These two forces, recruited and organized in New Orleans, represent half of all the units of buffalo soldiers. The 9th Cavalry alone constituted 10% of all the American cavalry. Their list of adversaries reads like a who's who of the Old West—Geronimo, Sitting Bull, Poncho Villa. In movies, when settlers encounter Apaches, the cavalry always comes to the rescue. Yet how many times were the cavalry that rode over the horizon African American? Of course, the reality is that the Buffalo Soldiers comprised some of our nations most capable and loyal troops. Despite suffering the worst deprivations known to any American soldiers of the period, they had the lowest desertion rates in the Army. The 9th Cavalry was awarded 10 Congressional Medals of Honor, including a native Louisianan, Sgt. Emanuel Stance—a farmer from Carroll Parish.

For these reasons, I am offering legislation today along with Senator VITTER that would authorize the creation of a suitable memorial in New Orleans for these gallant soldiers. There is an excellent statue to the Buffalo Soldiers at Fort Leavenworth, KS. It commemorates the 10th Cavalry Regiment stationed there. However, I believe that these men deserve to be recognized in their home city. Furthermore, it should be in an a location where thousands of visitors will have the opportunity to come to appreciate the legacy of the Buffalo Soldiers. I believe that the City of New Orleans is the perfect location.

We have made a number of changes to this legislation after consultations with the American Battle Monuments Commission. I believe these changes should address any concerns that they have expressed. Furthermore, we have an able and dedicated organization of individuals in the state who desperately want to see this project to completion. Last year, I had the pleasure of being in New Orleans with another of this Nation's great military heroes, Senator DANIEL INOUE. We addressed a group of distinguished veterans from all around the state. Among them was George Jones, President of the Greater New Orleans Chapter of the Buffalo Soldiers Association. They have been working with Eddie Dixon, the artist for the beautiful Fort Leavenworth statute, to develop an appropriate memorial in the City of New Orleans for over a decade. This bill will fulfill that noble ambition.

This Nation has sadly found the need to say thank you to its servicemen and women after the fact on more than one occasion. Unfortunately, this is another. We are fortunate to have living memories of the 9th and 10th Cavalry Regiments today. The regiments were not disbanded until the conclusion of World War Two, where they served with distinction. We should take this opportunity to honor these veterans, and in so doing, honor the principles of liberty, freedom and democracy for which they fought and sacrificed. They have given so much to their nation, we owe them this public expression of gratitude.

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. 205

*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 "Buffalo Soldiers Commemoration Act of 2005".

#### SEC. 2. ESTABLISHMENT OF BUFFALO SOLDIERS MEMORIAL.

(a) AUTHORIZATION.—The American Battle Monuments Commission is authorized to establish a memorial to honor the Buffalo Soldiers in or around the City of New Orleans on land donated for such purpose or on Federal land with the consent of the appropriate land manager.

(b) CONTRIBUTIONS.—The Commission shall solicit and accept contributions for the construction and maintenance of the memorial.

(c) COOPERATIVE AGREEMENTS.—The Commission may enter into a cooperative agreement with a private or public entity for the purpose of fundraising for the construction and maintenance of the memorial.

(d) MAINTENANCE AGREEMENT.—Prior to beginning construction of the memorial, the Commission shall enter into an agreement with an appropriate public or private entity to provide for the permanent maintenance of the memorial and shall have sufficient funds, or assurance that it will receive sufficient funds, to complete the memorial.

#### SEC. 3. BUFFALO SOLDIERS MEMORIAL ACCOUNT.

(a) ESTABLISHMENT.—The Commission shall maintain an escrow account ("account") to

pay expenses incurred in constructing the memorial.

(b) DEPOSITS INTO THE ACCOUNT.—The Commission shall deposit into the account any principal and interest by the United States that the Chairman determines has a suitable maturity.

(c) USE OF ACCOUNT.—Amounts in the account, including proceeds of any investments, may be used to pay expenses incurred in establishing the memorial. After construction of the memorial amounts in the account shall be transferred by the Commission to the entity providing for permanent maintenance of the memorial under such terms and conditions as the Commission determines will ensure the proper use and accounting of the amounts.

#### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

By Ms. CANTWELL (for herself, Mr. CRAIG, Mrs. MURRAY, and Mr. SMITH):

S. 206. A bill to designate the Ice Age Floods National Geologic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, today I am introducing the "Ice Age Floods National Geologic Trail Designation Act of 2005". I am thankful that Senator LARRY CRAIG of Idaho will again be the lead Republican cosponsor and pleased to also be joined by the Senior Senator from Washington, (Mrs. MURRAY), as well as Senator from Oregon, (Mr. SMITH).

Some 12,000 to 17,000 years ago, at the end of the Ice Age, a series of floods swept across the Pacific Northwest. These epic floods fundamentally changed the geography and way of life in the Pacific Northwest. The coulees, buttes, boulder fields, lakes, ridges and gravel bars they left behind still define the unique landscape of our State and our region today.

Creating a National Park Service trail to recognize and celebrate how these floods literally shaped the face of our State will provide an unparalleled educational resource for Washingtonians and visitors from across the country. It will also spur economic development and create jobs in local communities across Eastern and Central Washington.

I look forward to working with my other members of the Pacific Northwest congressional delegation, as well as my colleagues in the Senate, to ensure swift passage of this important legislation. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 206

*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 "Ice Age Floods National Geologic Trail Designation Act of 2005".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) at the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cata-

clysmic floods occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the States of Montana, Idaho, Washington and Oregon;

(2) geological features that have exceptional value and quality to illustrate and interpret this extraordinary natural phenomenon are present on Federal, State, tribal, county, municipal, and private land in the region; and

(3) in 2001, a joint study team headed by the National Park Service that included about 70 members from public and private entities completed a study endorsing the establishment of an Ice Age Floods National Geologic Trail—

(A) to recognize the national significance of this phenomenon; and

(B) to coordinate public and private sector entities in the presentation of the story of the Ice Age floods.

(b) PURPOSE.—The purpose of this Act is to designate the Ice Age Floods National Geologic Trail in the States of Montana, Idaho, Washington, and Oregon, enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ICE AGE FLOODS; FLOODS.—The term "Ice Age floods" or "floods" means the cataclysmic floods that occurred in what is now the northwestern United States during the last Ice Age from massive, rapid and recurring drainage of Glacial Lake in Missoula, Montana.

(2) PLAN.—The term "plan" means the cooperative management and interpretation plan authorized under section 5(f).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRAIL.—The term "Trail" means the Ice Age Floods National Geologic Trail designated by section 4(a).

#### SEC. 4. ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL.

(a) DESIGNATION.—In order to provide for public appreciation, understanding, and enjoyment of the nationally significant natural and cultural features of the Ice Age floods and to promote collaborative efforts for interpretation and education among public and private entities located along the pathways of the floods, there is designated the Ice Age Floods National Geologic Trail.

(b) LOCATION.—

(1) MAP.—The route of the Trail shall be generally depicted on the map entitled "Ice Age Floods National Geologic Trail," numbered \_\_\_\_\_, and dated \_\_\_\_\_.

(2) ROUTE.—The route shall generally follow public roads and highways—

(A) from the vicinity of Missoula in western Montana;

(B) across northern Idaho;

(C) through eastern and southern sections of Washington;

(D) across northern Oregon in the vicinity of the Willamette Valley and the Columbia River; and

(E) to the Pacific Ocean.

(3) REVISION.—The Secretary may revise the map by publication in the Federal Register of a notice of availability of a new map as part of the plan.

(c) MAP AVAILABILITY.—Any map referred to in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

#### SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, shall administer the Trail in accordance with this Act.

(b) **TRAIL MANAGEMENT OFFICE.**—In order for the National Park Service to manage the Trail and coordinate Trail activities with other public agencies and private entities, the Secretary may establish and operate a trail management office within the vicinity of the Trail.

(c) **LAND ACQUISITION.**—

(1) **IN GENERAL.**—If the acquisition is consistent with the plan, the Secretary may acquire land, in a quantity not to exceed 25 acres, for administrative and public information purposes to facilitate the geographic diversity of the Trail throughout the States of Montana, Idaho, Washington, and Oregon.

(2) **METHODS.**—

(A) **PRIVATE LAND.**—Private land may be acquired from a willing seller under this Act only by donation, purchase with donated or appropriated funds, or exchange.

(B) **NON-FEDERAL PUBLIC LAND.**—Non-Federal public land may be acquired from a willing seller under this Act—

(i) only by donation or exchange; and  
(ii) after consultation with the affected unit of local government.

(d) **INTERPRETIVE FACILITIES.**—The Secretary may plan, design, and construct interpretive facilities for sites associated with the Trail if the facilities are constructed in partnership with State, local, tribal, or nonprofit entities and are consistent with the plan.

(e) **INTERAGENCY TECHNICAL COMMITTEE.**—

(1) **IN GENERAL.**—The Secretary shall establish an interagency technical committee to advise the trail management office on the technical planning for the development of the plan.

(2) **COMPOSITION.**—The committee—

(A) shall include—  
(i) representatives from Federal, State, local, and tribal agencies with interests in the floods; and  
(ii) representatives from the Ice Age Floods Institute; and

(B) may include private property owners, business owners, and nonprofit organizations.

(f) **MANAGEMENT PLAN.**—

(1) **IN GENERAL.**—Not later than 3 years after funds are made available to carry out this Act under section 6, the Secretary shall prepare a cooperative management and interpretation plan for the Trail.

(2) **CONSULTATION.**—The Secretary shall prepare the plan in consultation with—

(A) State, local, and tribal governments;  
(B) the Ice Age Floods Institute;  
(C) private property owners; and  
(D) other interested parties.

(3) **CONTENTS.**—The plan shall—

(A) confirm and, if appropriate, expand on the inventory of features of the floods contained in the National Park Service study entitled "Ice Age Floods, Study of Alternatives and Environmental Assessment" (February 2001) by—

(i) locating features more accurately;  
(ii) improving the description of features; and  
(iii) reevaluating the features in terms of their interpretive potential;

(B) review and, if appropriate, modify the map of the Trail referred to in section 4(b);

(C) describe strategies for the coordinated development of the Trail, including an interpretive plan for facilities, waysides, roadside pullouts, exhibits, media, and programs that present the story of the floods to the public effectively; and

(D) identify potential partnering opportunities in the development of interpretive facilities and educational programs to educate the public about the story of the floods.

(g) **COOPERATIVE MANAGEMENT.**—

(1) **IN GENERAL.**—In order to facilitate the development of coordinated interpretation,

education, resource stewardship, visitor facility development and operation, and scientific research associated with the Trail and to promote more efficient administration of the sites associated with the Trail, the Secretary may enter into cooperative management agreements with appropriate officials in the States of Montana, Idaho, Washington, and Oregon in accordance with the authority provided for units of the National Park System under section 3(l) of Public Law 91-383 (16 U.S.C. 1a-2(l)).

(2) **UNIT OF NATIONAL PARK SYSTEM.**—For purposes of this subsection, the Trail shall be considered a unit of the National Park System.

(h) **COOPERATIVE AGREEMENTS.**—The Secretary may enter into cooperative agreements with public or private entities to carry out this Act.

(i) **EFFECT ON PRIVATE PROPERTY RIGHTS.**—Nothing in this Act—

(1) requires any private property owner to allow public access (including Federal, State, or local government access) to private property; or

(2) modifies any provision of Federal, State, or local law with respect to public access to or use of private land.

(j) **LIABILITY.**—Designation of the Trail by section 4(a) does not create any liability for, or affect any liability under any law of, any private property owner with respect to any person injured on the private property.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act, of which not more than \$500,000 may be used for each fiscal year for the administration of the Trail.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. 207. A bill to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, today I rise, along with Senator VITTER, to introduce the Jean Lafitte National Historic Park and Preserve Boundary Adjustment Act of 2005. This bill was passed unanimously by the Senate during the 108th Congress.

The Jean Lafitte National Historical Park and Preserve was established in 1978 to preserve for present and future generations significant examples of the rich natural and cultural resources of Louisiana's Mississippi delta region. The park seeks to illustrate the influence of environment and history on the development of a unique regional culture. It is named for Jean Lafitte who was a pirate, or privateer as he like to be called, that fought alongside U.S. forces in the Battle of New Orleans at the end of the War of 1812. The park consists of six physically separate sites and a park headquarters located in New Orleans. The sites in Lafayette, Thibodaux and Eunice interpret the Acadian culture of the area. The Barataria Preserve, in Marrero, interprets the natural and cultural history of the uplands, swamps and marshlands of the region. Six miles southeast of New Orleans is the Chalmette Battlefield and National Cemetery, site of the

1815 Battle of New Orleans and the final resting place for soldiers from the Civil War, Spanish-American War, World Wars I and II and Vietnam. The park's visitor center, which is located in the historic French Quarter, interprets the history of New Orleans and diverse cultures of Mississippi delta region.

It is the Barataria site that is the focus of our attention today. The Bill before us would merely adjust the boundary of the Barataria preserve unit of Jean Lafitte National Historical Park and Preserve and by doing so protect a crucial component of one of the largest and most productive expanses of coastal wetlands in North America—coastal Louisiana or as they are known: America's Wetlands. The Barataria preserve is the only part of our coastal wetlands preserved in the National Park System. As we strive to find ways to stem the tide of coastal erosion in Louisiana, and bring about the restoration of wetlands already lost, it is equally important that we protect those areas that remain such as the Barataria preserve so that Americans can experience, first hand, the amazing beauty and fertility of Louisiana's bountiful coastal wetlands—the most threatened wetland ecosystem in the country—disappearing at a rate of 25 to 35 square miles a year. Located on the outskirts of New Orleans, where it is accessible not only to the people of New Orleans but also to the millions of tourists from around the world that visit New Orleans and south Louisiana, Barataria serves as an interpretive experience of this greatest of coastal wetlands.

This bill expands this national treasure without any cost to the Federal Government while preserving private property rights. It simply transfers to the Park over 3,000 acres of wetlands already in Federal ownership, already paid for by the American people. These lands, which are adjacent to the Preserve, became Federal as a result of the settlement by the Justice Department of two lawsuits brought by the landowners against Federal agencies. However, because these acres are not managed by the park, they are presently unavailable for public use. An Act of Congress is necessary to allow inclusion of these lands into a new boundary.

My bill does just that, opening these lands for canoeing, wildlife viewing, exploration, fishing, and hunting, all under the management and protection of the park service. The bill grants long-term protection to crucial resources that the Park Service has found suitable and feasible for inclusion within a new boundary through a 1996 boundary study.

The Park is immediately adjacent to the developed areas of the Westbank of Jefferson Parish along much of its boundary while the Barataria unit in particular is right next door to a hurricane levee. Making more of the park boundary contiguous with the levee

that divides developed land from undeveloped wetlands enhances opportunities for direct cooperation between these communities and the Park for management of shared concerns. These concerns include the routing of storm-water run-off; the discharge of treated sewage; estuarine water quality and its effects on fisheries and recreational uses; wetland restoration and mitigation; and a number of other problems and opportunities. The Park has worked with Jefferson Parish in seeking creative solutions to these problems and will continue to do so. The addition of these properties will only enhance their chances for success.

It is for all of these reasons that I am hopeful the Senate can approve of this measure in the near future. The expansion we seek in this Bill benefits us today as well as tomorrow.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 207

*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 “Jean Lafitte National Historical Park and Preserve Boundary Adjustment Act of 2005”.

#### SEC. 2. JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—Section 901 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230) is amended in the second sentence by striking “twenty thousand acres generally depicted on the map entitled ‘Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve’ numbered 90,000B and dated April 1978,” and inserting “23,000 acres generally depicted on the map entitled ‘Boundary Map, Barataria Preserve Unit, Jean Lafitte National Historical Park and Preserve’, numbered 467/80100, and dated August 2002.”

(b) ACQUISITION OF LAND.—Section 902 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230a) is amended—

(1) in subsection (a)—

(A) by striking “(a) Within the” and all that follows through the first sentence and inserting the following:

“(a) IN GENERAL.—

“(1) BARATARIA PRESERVE UNIT.—

“(A) IN GENERAL.—The Secretary may acquire any land, water, and interests in land and water within the boundary of the Barataria Preserve Unit, as depicted on the map described in section 901, by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange.

“(B) LIMITATIONS.—

“(i) IN GENERAL.—With respect to the areas on the map identified as ‘Bayou aux Carpes Addition’ and ‘CIT Tract Addition’—

“(I) any Federal land acquired in the areas shall be transferred without consideration to the administrative jurisdiction of the National Park Service; and

“(II) any private land in the areas may be acquired by the Secretary only with the consent of the owner of the land.

“(ii) EASEMENTS.—Any Federal land in the area identified on the map as ‘CIT Tract Addition’ that is transferred under clause (i)(I)

shall be subject to any easements that have been agreed to by the Secretary and the Secretary of the Army.”;

(B) in the second sentence, by striking “The Secretary may also” and inserting the following:

“(2) FRENCH QUARTER.—The Secretary may”;

(C) in the third sentence, by striking “Lands, waters, and interests therein” and inserting the following:

“(3) ACQUISITION OF STATE LAND.—Land, water, and interests in land and water”;

(D) in the fourth sentence, by striking “In acquiring” and inserting the following:

“(4) ACQUISITION OF OIL AND GAS RIGHTS.—In acquiring”;

(2) by striking subsections (b) through (f) and inserting the following:

“(b) RESOURCE PROTECTION.—With respect to the land, water, and interests in land and water of the Barataria Preserve Unit, the Secretary shall preserve and protect—

“(1) fresh water drainage patterns;

“(2) vegetative cover;

“(3) the integrity of ecological and biological systems; and

“(4) water and air quality.”; and

(3) by redesignating subsection (g) as subsection (c).

(c) HUNTING, FISHING, AND TRAPPING.—Section 905 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230d) is amended in the first sentence by striking “within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this title, he” and inserting “the Secretary”.

(d) ADMINISTRATION.—Section 906 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230e) is amended—

(1) by striking the first sentence; and

(2) in the second sentence, by striking “Pending such establishment and thereafter the” and inserting “The”.

#### SEC. 3. REFERENCES IN LAW.

(a) IN GENERAL.—Any reference in a law (including regulations), map, document, paper, or other record of the United States—

(1) to the Barataria Marsh Unit shall be considered to be a reference to the Barataria Preserve Unit; or

(2) to the Jean Lafitte National Historical Park shall be considered to be a reference to the Jean Lafitte National Historical Park and Preserve.

(b) CONFORMING AMENDMENTS.—Title IX of the National Parks and Recreation Act of 1978 (16 U.S.C. 230 et seq.) is amended—

(1) by striking “Barataria Marsh Unit” each place it appears and inserting “Barataria Preserve Unit”; and

(2) by striking “Jean Lafitte National Historical Park” each place it appears and inserting “Jean Lafitte National Historical Park and Preserve”.

By Mr. LEVIN (for himself, Mr. DEWINE, Ms. STABENOW, and Mr. VOINOVICH):

S. 208. A bill to amend the Federal Water Pollution Control Act to direct the Great Lakes National Program Office of the Environmental Protection Agency to develop, implement, monitor, and report on a series of indicators of water quality and related environmental factors in the Great Lakes; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, my colleagues Senators DEWINE and VOINOVICH of Ohio, Senator STABENOW of Michigan, and I are pleased to introduce the Great Lakes Water Quality Indicators and Monitoring Act. The bill

directs the Environmental Protection Agency to develop indicators of Great Lakes water quality and related environmental factors and a comprehensive network to monitor those indicators. This bill will result in science-based assessments of the health of the Great Lakes.

The Great Lakes are a treasured natural resource. The Great Lakes contain almost 20% of the world’s fresh water, and millions of people in the Great Lakes basin rely on the lakes for drinking water, for economic livelihoods such as fishing and shipping, and for recreational opportunities, including swimming and boating. Unfortunately, the Great Lakes have suffered from decades of toxic discharges, urban and agricultural runoff, and other environmental challenges. We’ve made some progress in improving water quality, but we know we have a long way to go.

The stewards of the lakes—at the Federal, State, and local levels—use a variety of methods to determine the health of the Great Lakes and whether they are improving. For example, the EPA and the Fish and Wildlife Service monitor the accumulation of chemicals in Great Lakes fish. The National Oceanic and Atmospheric Administration detects changes in the ecosystem from space-based satellites and waterborne buoys. The U.S. Geological Survey samples stream flow and quality, and the States inspect for compliance with water quality standards. These efforts to collect scientific data are largely voluntary and suffer from a lack of funding and coordination. Additionally, they use inconsistent methods that often produce incompatible results.

In 2004, the General Accounting Office released a report entitled Great Lakes: An Overall Strategy and Indicators for Measuring Progress are Needed to Better Achieve Restoration Goals. The GAO looked at almost 200 Federal and State programs and found that a lack of coordination, poorly defined goals, and insufficient data make it difficult to evaluate the success of these programs. The GAO found that there are no data collected regularly throughout the Great Lakes, and that the existing data are inadequate to determine whether water quality and other environmental conditions are improving.

In 1990, I authored the Great Lakes Critical Programs Act, which strengthened the water quality standards in the Great Lakes region. In 2002, Congress passed the Great Lakes Legacy Act, to speed the cleanup of contaminated bottom sediment. Today, we need to establish a way to evaluate the impact of these and similar measures. To show results, we need science-based indicators of water quality and related environmental factors, and we need to monitor those indicators regularly throughout the ecosystem.

GAO recommends that EPA’s Great Lakes National Program Office lead an

effort to develop indicators and a monitoring network. Our bill gives that office the mandate to work with other Federal agencies and Canada to identify and measure water quality and other environmental factors on a regular basis. The initial set of data collected through this network will serve as a benchmark against which to measure future improvements. Those measurements will help us make decisions on how to steer future restoration efforts. With a clear picture of how the Great Lakes are changing, we can change course when needed and spend public funds on the most effective measures to meet the most pressing demands.

This bill serves a second purpose—it provides EPA with dedicated funding to make sure that data collection can begin in a timely manner and be carried out consistently and comprehensively.

I encourage my colleagues to support this bill and help speed its passage.

By Mr. LUGAR (for himself, Mr. BIDEN, and Mr. HAGEL):

S. 209. A bill to build operational readiness in civilian agencies, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I am reintroducing today a bill that was on the legislative calendar of the 108th Congress when it adjourned in December. The Stabilization and Reconstruction Civilian Management Act is intended to build operational readiness in the civilian agencies to improve our nation's capacity to carry out post-conflict stabilization and reconstruction missions.

Until very recently, the concept of "nation building" was considered to be pejorative by many Members of Congress and government officials. The foreign policy orthodoxy of both parties was skeptical of missions that entailed long-term peacekeeping or stabilization commitments. If military force was necessary, most policymakers believed it should be used only for relatively brief periods followed by rapid withdrawal.

But experience has taught us that this approach rarely can be accommodated if we are serious about protecting our own security in an age of terrorism. We have seen how terrorists can exploit nations afflicted by lawlessness and desperate circumstances. They seek out such places to establish training camps, recruit new members, and tap into a global black market in weapons technology. If we are to deny sanctuaries to terrorists, we must be involved in post-conflict stabilization.

With this in mind, the Foreign Relations Committee took up the issue of how best to organize and prepare for post-conflict missions. Well over a year ago, we held our first bipartisan roundtable that brought together some of the best minds from inside and outside of government to consider this issue. From this process, we developed the

Stabilization and Reconstruction Civilian Management Act of 2004. I introduced this legislation with Senators BIDEN and HAGEL, and the Committee passed it unanimously. The purpose of our bill is to establish a more robust civilian capability to respond quickly and effectively to post-conflict situations or other complex emergencies. The bill puts the State Department at the center of the civilian reconstruction and stabilization effort, while coordination between State and Defense would continue at the NSC level.

The Defense Science Board (DSB), which recently recommended a similar strengthening of stabilization and reconstruction capacity in the Defense Department, endorsed our legislation. On January 26, I introduced S. 192, new legislation that took the DSB recommendations and provided the executive branch the necessary authorities to carry them out. It calls upon the Secretary of Defense to take immediate action to strengthen the role and capabilities of the Department of Defense for carrying out stabilization and reconstruction activities as well as to support the development of core competencies in other departments and agencies, principally the Department of State. The bill has been referred to the Senate Armed Service Committee for that Committee's consideration.

While recognizing the critical challenges that our military has undertaken with skill and courage in both Afghanistan and Iraq, we must acknowledge that certain non-security missions will be better served in the future by a more organized civilian response. Our post-conflict efforts frequently have had a higher than necessary military profile. This is not the result of a Pentagon power grab or institutional fights. Rather, the military has led post-conflict operations primarily because it is the only agency capable of mobilizing sufficient personnel and resources for these tasks. As a consequence, military resources have been stretched and deployments of military personnel have been extended beyond expectations. If we can improve the capabilities of the civilian agencies, they can take over many of the non-security missions that have burdened the military.

In re-introducing the Stabilization and Reconstruction Civilian Management Act in the 109th Congress, I am well aware of the impact it has already had on both the debate on this issue and developments to date. In fact, some initiatives contained in the legislation have moved forward without its having been enacted. My Senate colleagues on the Foreign Operations Appropriations Subcommittee agreed with the need to provide an emergency conflict response fund for stabilization and reconstruction crises. And the Commerce, Justice, State appropriators in both the Senate and the House agreed with the need to establish a new office at the State Department to take the lead in organizing our civilian ef-

forts. Indeed, an Office of Reconstruction and Stabilization has now been organized and a highly capable coordinator named. At her confirmation hearings, Dr. Rice demonstrated detailed knowledge of the Office and its work. I am confident that she has already embraced the Department's role as a core mission and will work to support the Office with appropriate funding and the kind of Department-wide backing and support from management that it will need to do its job.

So why continue to pursue the legislation? It is still important to seek enactment because the legislation provides a permanent basis in law for the established office as well as new authorities that the Department will need to be successful.

The Bush Administration's action on this issue demonstrates its ability to recalibrate policy and organization to address a changing world. We know that the President will continue to provide leadership in organizing the U.S. government for this mission. As demonstrated by the Senate Foreign Relations Committee vote of 19-0, and by actions taken by the Senate Appropriations Subcommittee on Commerce, Justice, State and the Judiciary and the Senate Subcommittee on Foreign Operations, there is significant support in the Congress for his work and for the foresight he is already demonstrating.

The new Office, headed by Carlos Pascual, is doing a government-wide inventory of the civilian assets that might be available for stabilization and reconstruction tasks. It is also pursuing an idea proposed in our bill of a Readiness Reserve to enable rapid mobilization of post-conflict stabilization personnel. It will work closely with the Secretary to assist in the coordination of policy, the preparation and management of response, and in developing cooperative arrangements with foreign countries, international and regional organizations, nongovernmental organizations, and private sector organizations.

I am hopeful that the Office also will develop the concept of a 250-person active duty Response Readiness Corps that is contained in the legislation. In Army terms, that is less than a small battalion of well-trained people—a modest but vigorous force-multiplier that would greatly improve our nation's stabilization capacity. This Corps would be composed of State Department and USAID employees who have the experience and technical skills to manage stabilization and reconstruction tasks in a hostile environment.

Secretary Rice has been one of the most enthusiastic supporters of enhancing standing civilian capacity to respond to post conflict situations. In answer to one of my questions during the confirmation process, she said: "Creating a strong U.S. Government stabilization and reconstruction capacity is an Administration national security priority."



She asserted that "experience has shown that we must have the capacity to manage 2 to 3 stabilization and reconstruction operations concurrently. That means [we need] staff in Washington and in the field to manage and deliver quality programs."

Dr. Rice is prepared to make the State Department an effective inter-agency leader as it should be—in post-conflict operations. I look forward to working closely with her on this effort. I consider this new mission to be one of the most important long-term defenses that the State Department can mount against future acts of terrorism.

By Mrs. CLINTON (for herself, Mrs. DOLE, Mr. NELSON of Nebraska, Mr. BURR, Ms. STABENOW, Mr. HAGEL, Ms. CANTWELL, Mr. LUGAR, Mr. NELSON of Florida, Mr. COLEMAN, Mr. LAUTENBERG, Mr. LEVIN, Ms. LANDRIEU, Mrs. MURRAY, Mrs. BOXER, Mr. BAYH, Mr. INOUE, and Mr. BENNETT):

S. 211. A bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. CLINTON. Mr. President, I rise today to introduce the calling for a 2-1-1 Act with my colleague Senator ELIZABETH DOLE. This bill will make an invaluable difference for the citizens of New York and the country.

Just last week I was in Rochester helping to launch a 2-1-1 call center that will serve the citizens of the Finger Lakes region of New York. This call center will provide a simple, efficient, and convenient way for individuals to obtain vital information about government services. It is the first step in an ambitious plan to provide 365 day, 24 hour 2-1-1 service throughout all of New York, and ultimately, the entire country.

The Calling for 2-1-1 Act, which I am introducing today, will create at least one 2-1-1 call center just like the one in Rochester in every state in the country, and will link every regional call center together to ensure State-wide coverage. Last Congress, 31 members of the Senate and 149 members of the House of Representatives co-sponsored the Calling for 2-1-1 Act. In the 109th, we are working to appeal to even more.

The best part of the 2-1-1 system is that it is equally available to everyone. From the mother whose child is about to go off to war, to the veteran returning from service, 2-1-1 will help people access the information they need when they need it. It helps teens who are in crisis and young mothers who have nowhere else to turn. Single mothers trying to find a job in a tough economy, frail senior citizens who need help with transportation but have no family or friends to call, and substance-abusing teens who in a moment of lucidity de-

cide to seek a way out can all find what they need by dialing 2-1-1.

This number also helps people who want to give back to their communities. 2-1-1 provides lots of information about volunteer opportunities and helps direct people who want to give donations. At times of disaster, like the recent tsunami, 2-1-1 will be there to help get everyone the information they need to make sure their donations are directed effectively.

2-1-1 is not only good for New Yorkers; it is also good for our Nation's bottom line. 2-1-1 saves money because it eliminates duplicative services. The service will replace the existing maze of individual numbers for individual services: hotlines for shelter from abusive spouses, vaccinations for children, or information about where to obtain hospice services for ailing parents or loved ones. 2-1-1 will be a "one-stop shop" for all of these services. According to a recent study by the Ray Marshall Center for the Study of Human Resources at the University of Texas' Lyndon B. Johnson School of Public Affairs, 2-1-1 call centers can save as much as \$130 million in the first year of operation and as much as \$1.1 billion over ten years.

I would add that 2-1-1 saves lives. Every time someone calls 9-1-1 with a non-emergency call, the operators spend time with that caller that they could be spending dealing with a true emergency. 2-1-1 will replace 9-1-1 as the non-emergency point of reference because it is so easy to recall.

We learned on September 11th how important 2-1-1 can be. In the immediate aftermath of the disaster, most people did not know where to turn for information about their loved ones. Fortunately for those who knew about it, 2-1-1 was already operating in Connecticut during September 11th, and it was critical in helping identify the whereabouts of victims, connecting frightened children with their parents, providing information on terrorist suspects, and linking ready volunteers with coordinated efforts and victims with necessary mental and physical health services. 2-1-1 provided locations of vigils and support groups, and information on bioterrorism for those concerned about future attacks.

As time went by, many people needed help getting back on their feet. More than 100,000 people lost their jobs. Close to 2,000 families applied for housing assistance because they couldn't pay their rent or mortgage. 90,000 people developed symptoms of post-traumatic stress disorder or clinical depression within eight weeks of the attacks. Another 34,000 people met the criteria for both diagnoses. And 2-1-1 was there to help in Connecticut.

It wasn't available in far too many other areas, however. In fact, a Brookings Institution and Urban Institute study of the aftermath of September 11th found that many dislocated workers struggled to obtain available assistance. People "found it difficult to con-

nect with resources due to a social-services infrastructure that does not support a simple and efficient method for people to learn about and access services and for agencies to coordinate their activities."

And that is what 2-1-1 is all about. It provides a single, efficient, coordinated way for people who need help to connect with those who can provide it.

The Federal Communications Commission laid the groundwork for a 2-1-1 number in 2000 when it directed that telephone number to be reserved for information and referral to social and human-services agencies. The 2-1-1 system opens the way to a user-friendly social-services network, by providing an easy-to-remember and universally available phone number that links individuals and families in need to the appropriate non-profit and government agencies.

In Rochester, New York and throughout the Finger Lakes, 2-1-1 will do just that. Whatever the need, 2-1-1 can help point you in the right direction. That is why I am so pleased to be introducing this legislation today, and why I am so optimistic that this will be an important first step in the road to bringing 2-1-1 to communities throughout the Empire State and the entire U.S.A. Thank you.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 212. A bill to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes; to the Committee on Foreign Relations.

Mr. DOMENICI. Mr. President, in 2000 Congress established the Valles Caldera National Preserve, which is composed of approximately 89,000 acres of spectacular land in northern New Mexico. The Preserve was created to protect and preserve the region's values and to provide the public with opportunities for the multiple use and sustained yield of its resources.

Over the past 5 years, we have become aware of some simple changes in Federal policy that can be made to allow the Valles Caldera Trust and U.S. Forest Service to better address the issues facing the Valles Caldera Preserve. The bill that Senator BINGAMAN and I introduce today recognizes the need for those policy changes.

The bill does the following: (1) Eliminates the "willing seller basis" so the Secretary of Agriculture can purchase the outstanding mineral interests of the Valles Caldera; (2) requires the Valles Caldera Trust to better manage its obligations and expenditures; (3) expands the category of people who can solicit and accept donations on the Trust's behalf; (4) allows monies received from claims relating to the Preserve to be used for costs incurred by the Trust; (5) provides a rate of compensation for the chairman of the Trust; (6) authorizes the Trust to dispose of marketable renewable resources; and (7) requires the Secretary

of Agriculture to develop a fire safety plan for the Preserve.

These are not vast changes; nor should they be controversial. They will, however, make an important difference to one of New Mexico's most pristine wilderness areas that is appreciated by New Mexico's visitors and natives alike.

Because of the difference this legislation will make in New Mexico, I hope my colleagues will join with Senator BINGAMAN and me in approving the Valles Caldera Preservation Act of 2005.

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. 212

*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 "Valles Caldera Preservation Act of 2005".

#### SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESERVATION ACT.

(a) ACQUISITION OF OUTSTANDING MINERAL INTERESTS.—Section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v-2(e)) is amended—

(1) by striking "The acquisition" and inserting the following:

"(1) IN GENERAL.—The acquisition";

(2) by striking "The Secretary" and inserting the following:

"(2) ACQUISITION.—The Secretary";

(3) by striking "on a willing seller basis";

(4) by striking "Any such" and inserting the following:

"(3) ADMINISTRATION.—Any such"; and

(5) by adding at the end the following:

"(4) AVAILABLE FUNDS.—Any such interests shall be acquired with available funds.

"(5) DECLARATION OF TAKING.—

"(A) IN GENERAL.—If negotiations to acquire the interests are unsuccessful by the date that is 60 days after the date of enactment of this paragraph, the Secretary shall acquire the interests pursuant to section 3114 of title 40, United States Code.

"(B) SOURCE OF FUNDS.—Any difference between the sum of money estimated to be just compensation by the Secretary and the amount awarded shall be paid from the permanent judgment appropriation under section 1304 of title 31, United States Code."

(b) OBLIGATIONS AND EXPENDITURES.—Section 106(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(e)) is amended by adding at the end the following:

"(4) OBLIGATIONS AND EXPENDITURES.—Subject to the laws applicable to Government corporations, the Trust shall determine—

"(A) the character of, and the necessity for, any obligations and expenditures of the Trust; and

"(B) the manner in which obligations and expenditures shall be incurred, allowed, and paid."

(c) SOLICITATION OF DONATIONS.—Section 106(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(g)) is amended by striking "The Trust may solicit" and inserting "The members of the Board of Trustees, the executive director, and 1 additional employee of the Trust in an executive position designated by the Board of Trustees or the executive director may solicit".

(d) USE OF PROCEEDS.—Section 106(h)(1) of the Valles Caldera Preservation Act (16

U.S.C. 698v-4(h)(1)) is amended by striking "subsection (g)" and inserting "subsection (g), from claims, judgments, or settlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999."

#### SEC. 3. BOARD OF TRUSTEES.

Section 107(e) of the Valles Caldera Preservation Act (U.S.C. 698v-5(e)) is amended—

(1) in paragraph (2), by striking "Trustees" and inserting "Except as provided in paragraph (3), trustees"; and

(2) in paragraph (3)—

(A) by striking "Trustees" and inserting the following:

"(A) SELECTION.—Trustees"; and

(B) by adding at the end the following:

"(B) COMPENSATION.—On request of the chair, the chair may be compensated at a rate determined by the Board of Trustees, but not to exceed the daily equivalent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) in which the chair is engaged in the performance of duties of the Board of Trustees.

"(C) MAXIMUM RATE OF PAY.—The total amount of compensation paid to the chair for a fiscal year under subparagraph (B) shall not exceed 25 percent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code."

#### SEC. 4. RESOURCE MANAGEMENT.

(a) PROPERTY DISPOSAL LIMITATIONS.—Section 108(c)(3) of the Valles Caldera Preservation Act (16 U.S.C. 698v-6(c)(3)) is amended—

(1) in the first sentence, by striking "The Trust may not dispose" and inserting the following:

"(A) IN GENERAL.—The Trust may not dispose";

(2) in the second sentence, by striking "The Trust" and inserting the following:

"(B) MAXIMUM DURATION.—The Trust";

(3) in the last sentence, by striking "Any such" and inserting the following:

"(C) TERMINATION.—The"; and

(4) by adding at the end the following:

"(D) EXCLUSIONS.—For the purposes of this paragraph, the disposal of real property does not include the sale or other disposal of forage, forest products, or marketable renewable resources."

(b) LAW ENFORCEMENT AND FIRE MANAGEMENT.—Section 108(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v-6(g)) is amended—

(1) in the first sentence, by striking "The Secretary" and inserting the following:

"(1) LAW ENFORCEMENT.—

"(A) IN GENERAL.—The Secretary";

(2) in the second sentence, by striking "The Trust" and inserting the following:

"(B) FEDERAL AGENCY.—The Trust"; and

(3) by striking "At the request of the Trust" and all that follows through the end of the paragraph and inserting the following:

"(2) FIRE MANAGEMENT.—

"(A) NON-REIMBURSABLE SERVICES.—

"(i) DEVELOPMENT OF PLAN.—The Secretary shall, in consultation with the Trust, develop a plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

"(ii) CONSISTENCY WITH MANAGEMENT PROGRAM.—The plan shall be consistent with the management program developed pursuant to subsection (d).

"(iii) COOPERATIVE AGREEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

"(B) REIMBURSABLE SERVICES.—To the extent generally authorized at other units of the National Forest System, the Secretary may provide presuppression and non-emergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis."

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 213. A bill to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today on behalf of myself and Senator DOMENICI to introduce legislation to allow a transfer of land to Rio Arriba County, NM from the Bureau of Land Management. The land is needed for County facilities, a cemetery for a local parish, and a new public school.

Rio Arriba County is in a difficult position; the needs of the rapidly increasing area population continue to increase but there is precious little land available to the County where they can locate necessary facilities. Fortunately, the County has worked with the BLM to find a parcel of land that each agrees will best serve the interests of the public if it is transferred to County ownership. Indeed, I am told that BLM would likely have handled this transfer administratively if they were not barred from doing so by the particular history of how this parcel came into federal ownership. I am unaware of any opposition to the transfer.

This bill will simply change the legal framework for the parcel so that the transfer can take place. I hope the Senate can act on this bill as quickly as possible so that Rio Arriba County can move forward to meet the pressing needs of the people there.

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. 213

*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 "Rio Arriba County Land Conveyance Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) COUNTY.—The term "County" means the County of Rio Arriba, New Mexico.

(2) MAP.—The term "map" means the map entitled "Alcalde Proposed Land Transfer" and dated September 23, 2004.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

#### SEC. 3. CONVEYANCE OF LAND TO RIO ARRIBA COUNTY, NEW MEXICO.

(a) IN GENERAL.—Subject to subsection (c), not later than 1 year after the date of enactment of this Act, the Secretary shall convey to the County, all right, title, and interest of the United States in and to the land (including any improvements to the land) described in subsection (b).

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 150.86 acres of land located on

the Sebastian Martin Land Grant in the vicinity of Alcalde, Rio Arriba County, New Mexico, as depicted on the map.

(c) CONDITIONS.—

(1) IN GENERAL.—The land conveyed under subsection (a) shall be treated as public land for the purposes of the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.)

(2) CONSIDERATION.—The amount of consideration for the conveyance of land under subsection (a) shall be determined by the Secretary consistent with section 2(a) of the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869-1(a)).

(3) AGREEMENT.—Before conveying the land under subsection (a), the Secretary shall enter into an agreement with the County that indemnifies the United States from all liability of the United States arising from the land conveyed.

By Mr BINGAMAN (for himself, Mr. DOMENICI, and Mr. KYL):

S. 214. A bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, on behalf of myself, Senator DOMENICI and Senator KYL, I am pleased today to introduce the United States-Mexico Transboundary Aquifer Assessment Act. This legislation is intended to address the significant challenges concerning water resources that exist along the U.S.-Mexico border. Recognizing the importance of these issues to the States making up that border, New Mexico, Arizona, Texas, and California, the Senate passed this bill twice during the 108th Congress. With strong bipartisan, and now bicameral support, I hope we can act quickly to pass it once again so that it can be enacted into law at the earliest opportunity.

The genesis of this bill is a field hearing I conducted over three years ago during my tenure as the Chairman of the Energy and Natural Resources Committee. The focus of that hearing was water resource issues developing along the U.S.-Mexico border. In particular, I was concerned that issues regarding the availability of future water supplies were growing, and could lead to conflict in the region. The testimony at that hearing made clear that consensus is lacking on how communities in the border region will address their future water needs. Most significant, I was struck by the lack of agreement on the long-term viability of future groundwater sources, many of which involve aquifers underlying both the United States and Mexico. Given the rapid population growth along the border, and the corresponding increase in demand for potable water, there is a strong need to gain a common and detailed understanding of our shared groundwater resources. A science-based understanding of the resource is the first step to avoid conflicts similar to

the one arising in south Texas over Rio Grande water deliveries under the 1944 U.S.-Mexico treaty.

The United States-Mexico Transboundary Assessment Act is intended to address the lack of a binational consensus regarding water supplies along the border. It will do this by establishing a scientific program, involving the U.S. Geological Survey (USGS), Water Resources Research Institutes, and appropriate authorities and other entities on both sides of the border, to comprehensively assess priority transboundary aquifers. Ultimately, the information and scientific tools developed under the program will be extremely valuable to State and local water resource managers in the border region. Of particular note, the analysis will include a search for new sources of water such as saline aquifers. Continued development of desalination technologies may lead to significant use of this untapped resource in the near future.

I understand that establishing this scientific program and accurately assessing our shared water resources is just a step towards developing the long-term plans and solutions that will help avoid future international disputes concerning scarce water supplies. This small step, however, is an important one, and one with broad policy support. In its 6th Report on the U.S.-Mexico Border Environment, the Good Neighbor Environmental Board, an independent federal advisory committee managed by the U.S. Environmental Protection Agency, recommended the initiation of a “border-wide groundwater assessment program to systematically analyze priority transboundary aquifers.” Also, the Center for Strategic and International Studies, in a January 2003 report of its U.S.-Mexico Binational Council, included as one of its recommendations that Mexico and the United States “improve data collection, information gathering, and transparency as the first step to developing a long-term strategy for water management.”

Ultimately, an effective long-term strategy will have to be developed by the communities and other water users who reside along the border. Working with each other and their State water resource agencies, I believe successful strategies can be developed so long as the information upon which those plans are based is the most accurate possible. In that respect, the USGS, along with its State-based partners, have a strong and important role to play. The resources and criteria provided by this legislation will ensure that these organizations can fulfill that role which, in turn, will enhance the prospects of our border communities to be able to plan for their future in a manner ensuring their long-term viability and prosperity.

Thank you for the opportunity to make these remarks. 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. 214

*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 “United States-Mexico Transboundary Aquifer Assessment Act”.

**SEC. 2. PURPOSE.**

The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to—

(1) systematically assess priority transboundary aquifers; and

(2) provide the scientific foundation necessary for State and local officials to address pressing water resource challenges in the United States-Mexico border region.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AQUIFER.—The term “aquifer” means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) BORDER STATE.—The term “Border State” means each of the States of Arizona, California, New Mexico, and Texas.

(3) INDIAN TRIBE.—The term “Indian tribe” means an Indian tribe, band, nation, or other organized group or community—

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) PRIORITY TRANSBOUNDARY AQUIFER.—The term “priority transboundary aquifer” means a transboundary aquifer that has been designated for study and analysis under the program.

(5) PROGRAM.—The term “program” means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(6) RESERVATION.—The term “reservation” means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(7) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(8) TRANSBOUNDARY AQUIFER.—The term “transboundary aquifer” means an aquifer that underlies the boundary between the United States and Mexico.

(9) TRI-REGIONAL PLANNING GROUP.—The term “Tri-Regional Planning Group” means the binational planning group comprised of—

(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(10) WATER RESOURCES RESEARCH INSTITUTES.—The term “water resources research institutes” means the institutes within the Border States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

**SEC. 4. ESTABLISHMENT OF PROGRAM.**

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Border States, the water resources research institutes, Sandia National Laboratories, and

other appropriate entities in the United States and Mexico, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model transboundary groundwater resources along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) OBJECTIVES.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to assess transboundary groundwater resources, including—

(A)(i) identifying fresh and saline transboundary aquifers; and

(ii) prioritizing the transboundary aquifers for further analysis by assessing—

(I) the proximity of the transboundary aquifer to areas of high population density;

(II) the extent to which the transboundary aquifer is used;

(III) the susceptibility of the transboundary aquifer to contamination; and

(IV) any other relevant criteria;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

(i) the additional data necessary to adequately define aquifer characteristics; and

(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

(2) expand existing agreements, as appropriate, between the United States Geological Survey, the Border States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—

(A) conduct joint scientific investigations;

(B) archive and share relevant data; and

(C) carry out any other activities consistent with the program; and

(3) produce scientific products for each priority transboundary aquifer that—

(A) are capable of being broadly distributed; and

(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

(c) DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.—

(1) IN GENERAL.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico; and

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico.

(2) ADDITIONAL AQUIFERS.—The Secretary shall, using the criteria under subsection (b)(1)(A)(ii), evaluate and designate additional priority transboundary aquifers.

(d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources

research institutes and other Border State entities to carry out the program.

#### SEC. 5. IMPLEMENTATION OF PROGRAM.

(a) COORDINATION WITH STATES, TRIBES, AND OTHER ENTITIES.—The Secretary shall coordinate the activities carried out under the program with—

(1) the appropriate water resource agencies in the Border States;

(2) any affected Indian tribes; and

(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer.

(b) NEW ACTIVITY.—After the date of enactment of this Act, the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Border State water resource agencies that have jurisdiction over the aquifer.

(c) STUDY PLANS; COST ESTIMATES.—

(1) IN GENERAL.—The Secretary shall work closely with appropriate Border State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

(2) REQUIREMENTS.—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

(C) be consistent with appropriate State guidelines and goals.

#### SEC. 6. EFFECT.

Nothing in this Act affects—

(1) the jurisdiction or responsibility of a Border State with respect to managing surface or groundwater resources in the Border State; or

(2) the water rights of any person or entity using water from a transboundary aquifer.

#### SEC. 7. REPORTS.

Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2014, the Secretary shall submit to the appropriate water resource agency in the Border States, an interim and final report, respectively, that describes—

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

#### SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act \$50,000,000 for the period of fiscal years 2006 through 2015.

(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Border States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and Mexico to conduct activities under the program, including the binational collection and exchange of scientific data.

By Mr. INOUE:

S. 215. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

Mr. INOUE. Mr. President, I rise today to introduce a bill to reauthorize the Native Hawaiian Health Care Improvement Act. Senator AKAKA joins me in sponsoring this measure.

The Native Hawaiian Health Care Improvement Act was enacted into law in 1988, and has been reauthorized every 4 years since that time.

The Act provides authority for range of programs and services designed to improve the health care status of the Native people of Hawaii.

With the enactment of the Native Hawaiian Health Care Improvement Act and the establishment of Native Hawaiian health care systems on most of the islands that make up the State of Hawaii, we have witnessed significant improvements in the health status of Native Hawaiians, but as the findings of unmet needs and health disparities set forth in this bill make clear, we still have a long way to go.

For instance, Native Hawaiians have the highest cancer mortality rates in the State of Hawaii—rates that are 21 percent higher than the rate for the total State male population and 64 percent higher than the rate for the total State female population. Nationally, Native Hawaiians have the third highest mortality rate as a result of breast cancer.

With respect to diabetes, in 2000, Native Hawaiians had the highest mortality rate associated with diabetes in the State—a rate which is 138 percent higher than the statewide rate for all racial groups.

When it comes to heart disease, the mortality rate of Native Hawaiians associated with heart disease is 68 percent higher than the rate for the entire State, and the mortality rate for hypertension is 84 percent higher than that for the entire State.

These statistics on the health status of Native Hawaiians are but a small part of the long list of data that makes clear that our objective of assuring that the Native people of Hawaii attain some parity of good health comparable to that of the larger U.S. population has not yet been achieved.

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. 215

*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 “Native Hawaiian Health Care Improvement Reauthorization Act of 2005”.

#### SEC. 2. AMENDMENT TO THE NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT.

The Native Hawaiian Health Care Improvement Act (42 U.S.C. 11701 et seq.) is amended to read as follows:

#### “SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

“(a) SHORT TITLE.—This Act may be cited as the ‘Native Hawaiian Health Care Improvement Act’.

“(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- "Sec. 1. Short title; table of contents.
- "Sec. 2. Findings.
- "Sec. 3. Definitions.
- "Sec. 4. Declaration of national Native Hawaiian health policy.
- "Sec. 5. Comprehensive health care master plan for Native Hawaiians.
- "Sec. 6. Functions of Papa Ola Lokahi and Office of Hawaiian Affairs.
- "Sec. 7. Native Hawaiian health care.
- "Sec. 8. Administrative grant for Papa Ola Lokahi.
- "Sec. 9. Administration of grants and contracts.
- "Sec. 10. Assignment of personnel.
- "Sec. 11. Native Hawaiian health scholarships and fellowships.
- "Sec. 12. Report.
- "Sec. 13. Use of Federal Government facilities and sources of supply.
- "Sec. 14. Demonstration projects of national significance.
- "Sec. 15. Rule of construction.
- "Sec. 16. Compliance with Budget Act.
- "Sec. 17. Severability.

## "SEC. 2. FINDINGS.

"(a) GENERAL FINDINGS.—Congress finds that—

"(1) Native Hawaiians begin their story with the Kumulipo, which details the creation and interrelationship of all things, including the involvement of Native Hawaiians as healthy and well people;

"(2) Native Hawaiians—

"(A) are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago within Ke Moananui, the Pacific Ocean; and

"(B) have a distinct society that was first organized almost 2,000 years ago;

"(3) the health and well-being of Native Hawaiians are intrinsically tied to the deep feelings and attachment of Native Hawaiians to their lands and seas;

"(4) the long-range economic and social changes in Hawaii over the 19th and early 20th centuries have been devastating to the health and well-being of Native Hawaiians;

"(5) Native Hawaiians have never directly relinquished to the United States their claims to their inherent sovereignty as a people or over their national territory, either through their monarchy or through a plebiscite or referendum;

"(6) the Native Hawaiian people are determined to preserve, develop, and transmit to future generations, in accordance with their own spiritual and traditional beliefs, their customs, practices, language, social institutions, ancestral territory, and cultural identity;

"(7) in referring to themselves, Native Hawaiians use the term 'Kanakā Maoli', a term frequently used in the 19th century to describe the native people of Hawaii;

"(8) the constitution and statutes of the State of Hawaii—

"(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

"(B) reaffirm and protect the unique right of the Native Hawaiian people to practice and perpetuate their cultural and religious customs, beliefs, practices, and language;

"(9) at the time of the arrival of the first nonindigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion;

"(10) a unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii;

"(11) throughout the 19th century until 1893, the United States—

"(A) recognized the independence of the Hawaiian Nation;

"(B) extended full and complete diplomatic recognition to the Hawaiian Government; and

"(C) entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

"(12) in 1893, John L. Stevens, the United States Minister assigned to the sovereign and independent Kingdom of Hawaii, conspired with a small group of non-Hawaiian residents of the Kingdom, including citizens of the United States, to overthrow the indigenous and lawful government of Hawaii;

"(13) in pursuance of that conspiracy—

"(A) the United States Minister and the naval representative of the United States caused armed forces of the United States Navy to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful Government of Hawaii; and

"(B) after that overthrow, the United States Minister extended diplomatic recognition of a provisional government formed by the conspirators without the consent of the native people of Hawaii or the lawful Government of Hawaii, in violation of—

"(i) treaties between the Government of Hawaii and the United States; and

"(ii) international law;

"(14) in a message to Congress on December 18, 1893, President Grover Cleveland—

"(A) reported fully and accurately on those illegal actions;

"(B) acknowledged that by those acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown; and

"(C) concluded that a 'substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people required that we should endeavor to repair';

"(15) Queen Lili'uokalani, the lawful monarch of Hawaii, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawaii, promptly petitioned the United States for redress of those wrongs and restoration of the indigenous government of the Hawaiian nation, but no action was taken on that petition;

"(16) in 1993, Congress enacted Public Law 103-150 (107 Stat. 1510), in which Congress—

"(A) acknowledged the significance of those events; and

"(B) apologized to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii with the participation of agents and citizens of the United States, and the resulting deprivation of the rights of Native Hawaiians to self-determination;

"(17) in 1898, the United States—

"(A) annexed Hawaii through Resolution No. 55 (commonly known as the 'Newlands Resolution') (30 Stat. 750), without the consent of, or compensation to, the indigenous people of Hawaii or the sovereign government of those people; and

"(B) denied those people the mechanism for expression of their inherent sovereignty through self-government and self-determination of their lands and ocean resources;

"(18) through the Newlands Resolution and the Act of April 30, 1900 (commonly known as the '1900 Organic Act') (31 Stat. 141, chapter 339), Congress—

"(A) received 1,750,000 acres of land formerly owned by the Crown and Government of the Hawaiian Kingdom; and

"(B) exempted the land from then-existing public land laws of the United States by mandating that the revenue and proceeds from that land be 'used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes',

thereby establishing a special trust relationship between the United States and the inhabitants of Hawaii;

"(19) in 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), which—

"(A) designated 200,000 acres of the ceded public land for exclusive homesteading by Native Hawaiians; and

"(B) affirmed the trust relationship between the United States and Native Hawaiians, as expressed by Secretary of the Interior Franklin K. Lane, who was cited in the Committee Report of the Committee on Territories of the House of Representatives as stating, 'One thing that impressed me . . . was the fact that the natives of the islands . . . for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.';

"(20) in 1938, Congress again acknowledged the unique status of the Native Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781), a provision—

"(A) to lease land within the extension to Native Hawaiians; and

"(B) to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance';

"(21) under the Act of March 18, 1959 (48 U.S.C. prec. 491 note; 73 Stat. 4), the United States—

"(A) transferred responsibility for the administration of the Hawaiian home lands to the State; but

"(B) reaffirmed the trust relationship that existed between the United States and the Native Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under that Act;

"(22) under the Act referred to in paragraph (21), the United States—

"(A) transferred responsibility for administration over portions of the ceded public lands trust not retained by the United States to the State; but

"(B) reaffirmed the trust relationship that existed between the United States and the Native Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of that Act (73 Stat. 6);

"(23) in 1978, the people of Hawaii—

"(A) amended the constitution of Hawaii to establish the Office of Hawaiian Affairs; and

"(B) assigned to that Office the authority—

"(i) to accept and hold in trust for the Native Hawaiian people real and personal property transferred from any source;

"(ii) to receive payments from the State owed to the Native Hawaiian people in satisfaction of the pro rata share of the proceeds of the public land trust established by section 5(f) of the Act of March 18, 1959 (48 U.S.C. prec. 491 note; 73 Stat. 6);

"(iii) to act as the lead State agency for matters affecting the Native Hawaiian people; and

"(iv) to formulate policy on affairs relating to the Native Hawaiian people;

"(24) the authority of Congress under the Constitution to legislate in matters affecting the aboriginal or indigenous people of the United States includes the authority to legislate in matters affecting the native people of Alaska and Hawaii;

"(25) the United States has recognized the authority of the Native Hawaiian people to continue to work toward an appropriate form of sovereignty, as defined by the Native Hawaiian people in provisions set forth in legislation returning the Hawaiian Island of

Kaho'olawe to custodial management by the State in 1994;

"(26) in furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people;

"(27) that program is conducted by the Native Hawaiian Health Care Systems and Papa Ola Lokahi;

"(28) health initiatives implemented by those and other health institutions and agencies using Federal assistance have been responsible for reducing the century-old morbidity and mortality rates of Native Hawaiian people by—

"(A) providing comprehensive disease prevention;

"(B) providing health promotion activities; and

"(C) increasing the number of Native Hawaiians in the health and allied health professions;

"(29) those accomplishments have been achieved through implementation of—

"(A) the Native Hawaiian Health Care Act of 1988 (Public Law 100-579); and

"(B) the reauthorization of that Act under section 9168 of the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1948);

"(30) the historical and unique legal relationship between the United States and Native Hawaiians has been consistently recognized and affirmed by Congress through the enactment of more than 160 Federal laws that extend to the Native Hawaiian people the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities, including—

"(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

"(B) the American Indian Religious Freedom Act (42 U.S.C. 1996);

"(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.); and

"(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

"(31) the United States has recognized and reaffirmed the trust relationship to the Native Hawaiian people through legislation that authorizes the provision of services to Native Hawaiians, specifically—

"(A) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

"(B) the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 (42 U.S.C. 6000 et seq.);

"(C) the Veterans' Benefits and Services Act of 1988 (Public Law 100-322);

"(D) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(E) the Native Hawaiian Health Care Act of 1988 (42 U.S.C. 11701 et seq.);

"(F) the Health Professions Reauthorization Act of 1988 (Public Law 100-607; 102 Stat. 3122);

"(G) the Nursing Shortage Reduction and Education Extension Act of 1988 (Public Law 100-607; 102 Stat. 3153);

"(H) the Handicapped Programs Technical Amendments Act of 1988 (Public Law 100-630);

"(I) the Indian Health Care Amendments of 1988 (Public Law 100-713); and

"(J) the Disadvantaged Minority Health Improvement Act of 1990 (Public Law 101-527);

"(32) the United States has affirmed that historical and unique legal relationship to the Hawaiian people by authorizing the provision of services to Native Hawaiians to address problems of alcohol and drug abuse under the Anti-Drug Abuse Act of 1986 (21 U.S.C. 801 note; Public Law 99-570);

"(33) in addition, the United States—

"(A) has recognized that Native Hawaiians, as aboriginal, indigenous, native people of Hawaii, are a unique population group in Hawaii and in the continental United States; and

"(B) has so declared in Office of Management and Budget Circular 15 in 1997 and Presidential Executive Order No. 13125, dated June 7, 1999; and

"(34) despite the United States having expressed in Public Law 103-150 (107 Stat. 1510) its commitment to a policy of reconciliation with the Native Hawaiian people for past grievances—

"(A) the unmet health needs of the Native Hawaiian people remain severe; and

"(B) the health status of the Native Hawaiian people continues to be far below that of the general population of the United States.

"(b) FINDING OF UNMET NEEDS AND HEALTH DISPARITIES.—Congress finds that the unmet needs and serious health disparities that adversely affect the Native Hawaiian people include the following:

"(1) CHRONIC DISEASE AND ILLNESS.—

"(A) CANCER.—

"(i) IN GENERAL.—With respect to all cancer—

"(I) Native Hawaiians have the highest cancer mortality rates in the State (216.8 out of every 100,000 male residents and 191.6 out of every 100,000 female residents), rates that are 21 percent higher than the rate for the total State male population (179.0 out of every 100,000 residents) and 64 percent higher than the rate for the total State female population (117.0 per 100,000);

"(II) Native Hawaiian males have the highest cancer mortality rates in the State for cancers of the lung, colon, rectum, and colorectum, and for all cancers combined;

"(III) Native Hawaiian females have the highest cancer mortality rates in the State for cancers of the lung, liver, pancreas, breast, corpus uteri, stomach, colon, and rectum, and for all cancers combined;

"(IV) Native Hawaiian males have 8.7 years of productive life lost as a result of cancer in the State, the highest years of productive life lost in that State, as compared with 6.4 years for all males; and

"(V) Native Hawaiian females have 8.2 years of productive life lost as a result of cancer in the State as compared with 6.4 years for all females in the State.

"(ii) BREAST CANCER.—With respect to breast cancer—

"(I) Native Hawaiians have the highest mortality rate in the State from breast cancer (30.79 out of every 100,000 residents), a rate that is 33 percent higher than that for Caucasian Americans (23.07 out of every 100,000 residents) and 106 percent higher than that for Chinese Americans (14.96 out of every 100,000 residents); and

"(II) nationally, Native Hawaiians have the third highest mortality rate as a result of breast cancer (25.0 out of every 100,000 residents), behind African Americans (31.4 out of every 100,000 residents) and Caucasian Americans (27.0 out of every 100,000 residents).

"(iii) CANCER OF THE CERVIX.—Native Hawaiians have the highest mortality rate as a result of cancer of the cervix in the State (3.65 out of every 100,000 residents), followed by Filipino Americans (2.69 out of every 100,000 residents) and Caucasian Americans (2.61 out of every 100,000 residents).

"(iv) LUNG CANCER.—Native Hawaiian males and females have the highest mortality rates as a result of lung cancer in the State, at 74.79 per 100,000 for males and 47.84 per 100,000 females, which rates are higher than the rates for the total State population by 48 percent for males and 93 percent for females.

"(v) PROSTATE CANCER.—Native Hawaiian males have the third highest mortality rate as a result of prostate cancer in the State (21.48 out of every 100,000 residents), with Caucasian Americans having the highest mortality rate as a result of prostate cancer (23.96 out of every 100,000 residents).

"(B) DIABETES.—With respect to diabetes, in 2000—

"(i) Native Hawaiians had the highest mortality rate as a result of diabetes mellitus (38.8 out of every 100,000 residents) in the State, which rate is 138 percent higher than the statewide rate for all racial groups (16.3 out of every 100,000 residents); and

"(ii) full-blood Hawaiians had a mortality as a result of diabetes mellitus of 93.3 out of every 100,000 residents, which is 518 percent higher than the rate for the statewide population of all other racial groups.

"(C) ASTHMA.—With respect to asthma—

"(i) in 1990, Native Hawaiians comprised 44 percent of all asthma cases in the State for those 18 years of age and younger, and 35 percent of all asthma cases reported; and

"(ii) in 1999, the Native Hawaiian prevalence rate for asthma was 129.6 out of every 1,000 residents, which was 69 percent higher than the rate for all others combined in the State (76.7 out of every 1,000 residents).

"(D) CIRCULATORY DISEASES.—

"(i) HEART DISEASE.—With respect to heart disease—

"(I) the mortality rate for Native Hawaiians as a result of heart disease (372.3 out of every 100,000 residents) is 68 percent higher than the rate for the entire State (221.9 out of every 100,000 residents); and

"(II) Native Hawaiian males have the greatest years of productive life lost in the State, because Native Hawaiian males lose an average of 15.5 years and Native Hawaiian females lose an average of 8.2 years as a result of heart disease, as compared with 7.5 years for all males, and 6.4 years for all females, in the State.

"(ii) HYPERTENSION.—With respect to hypertension—

"(I) the mortality rate for Native Hawaiians as a result of hypertension (3.5 out of every 100,000 residents) is 84 percent higher than that for the entire State (1.9 out of every 100,000 residents);

"(II) Native Hawaiians have substantially higher prevalence rates of hypertension than—

"(aa) those observed statewide; and

"(bb) those of any other ethnic group in Hawaii; and

"(III) the prevalence rate of hypertension for Native Hawaiians is 37.9 percent, 11 percent higher than that for all others in the State (34.1 percent).

"(iii) STROKE.—The mortality rate for Native Hawaiians as a result of stroke (72.0 out of every 100,000 residents) is 20 percent higher than that for the entire State (60 out of every 100,000 residents).

"(2) INFECTIOUS DISEASE AND ILLNESS.—With respect to infectious disease and illness—

"(A) in 1998, Native Hawaiians comprised 20 percent of all deaths resulting from infectious diseases in the State for all ages; and

"(B) the incidence of acquired immune deficiency syndrome for Native Hawaiians is at least twice as high per 100,000 residents (10.5 percent) than that for any other non-Caucasian group in the State.

"(3) INJURIES.—With respect to injuries—

"(A) the mortality rate for Native Hawaiians as a result of injuries (32.0 out of every 100,000 residents) is 16 percent higher than that for the entire State (27.5 out of every 100,000 residents);



“(B) 32 percent of all deaths of individuals between the ages of 18 and 24 years of age resulting from injuries were Native Hawaiian; and

“(C) the 2 primary causes of Native Hawaiian deaths in that age group were motor vehicle accidents (30 percent) and intentional self-harm (39 percent).

“(4) DENTAL HEALTH.—With respect to dental health—

“(A) Native Hawaiian children exhibit among the highest rates of dental caries in the United States, and the highest in the State as compared with the 5 other major ethnic groups in the State;

“(B) the average number of decayed or filled primary teeth for Native Hawaiian children aged 5 through 9 years was 4.3, as compared with 3.7 for all children in the State and 1.9 for all children in the United States; and

“(C) the proportion of Native Hawaiian children aged 5 through 12 years with unmet dental treatment needs (defined as having active dental caries requiring treatment) is 40 percent, as compared with 33 percent for all other racial groups in the State.

“(5) LIFE EXPECTANCY.—With respect to life expectancy—

“(A) Native Hawaiians have the lowest life expectancy of all population groups in the State;

“(B) between 1910 and 1980, the life expectancy of Native Hawaiians from birth has ranged from 5 to 10 years less than that of the overall State population average; and

“(C) the most recent tables for 1990 show Native Hawaiian life expectancy at birth (74.27 years) to be approximately 5 years less than that of the total State population (78.85 years).

“(6) MATERNAL AND CHILD HEALTH.—

“(A) IN GENERAL.—With respect to maternal and child health, for 2000—

“(i) 39 percent of all deaths of children under the age of 18 years in the State were Native Hawaiian; and

“(ii) perinatal conditions accounted for 38 percent of all Native Hawaiian deaths in that age group.

“(B) PRENATAL CARE.—With respect to prenatal care—

“(i) as of 1998, Native Hawaiian women have the highest prevalence (24 percent) of having had no prenatal care during the first trimester of pregnancy, as compared with the 5 largest ethnic groups in the State;

“(ii) of the mothers in the State who received no prenatal care throughout their pregnancies in 1996, 44 percent were Native Hawaiian;

“(iii) more than 65 percent of the referrals to Healthy Start in fiscal years 1996 and 1997 were Native Hawaiian newborns; and

“(iv) in every region of the State, many Native Hawaiian newborns begin life in a potentially hazardous circumstance, far higher than any other racial group.

“(C) BIRTHS.—With respect to births—

“(i) in 1996, 45 percent of the live births to Native Hawaiian mothers were infants born to single mothers, a circumstance which statistics indicate puts infants at higher risk of low birth weight and infant mortality;

“(ii) in 1996, of the births to Native Hawaiian single mothers, 8 percent were low birth weight (defined as a weight of less than 2,500 grams); and

“(iii) of all low birth weight infants born to single mothers in the State, 44 percent were Native Hawaiian.

“(D) TEEN PREGNANCIES.—With respect to births—

“(i) in 1993 and 1994, Native Hawaiians had the highest percentage of teen (individuals who were less than 18 years of age) births (8.1 percent), as compared with the rate for all other racial groups in the State (3.6 percent);

“(ii) in 1998, nearly 49 percent of all mothers in the State under 19 years of age were Native Hawaiian;

“(iii) in 1998, Native Hawaiians comprised 31 percent (1,425) of all live births to mothers with medical risk factors in the State (4,559); and

“(iv) lower rates of abortion (approximately 33 percent lower than for the statewide population) among Hawaiian women may account, in part, for that higher percentage of live births.

“(E) FETAL MORTALITY.—With respect to fetal mortality—

“(i) in 2000, Native Hawaiians had the highest number of fetal deaths in the State; and

“(ii) 21 percent of all fetal deaths in the State were associated with expectant Native Hawaiian mothers; and

“(II) 37 percent of those Native Hawaiian mothers were under the age of 25 years.

“(7) MENTAL HEALTH.—

“(A) ALCOHOL AND DRUG ABUSE.—With respect to alcohol and drug abuse—

“(i) Native Hawaiians represent 38 percent of the total admissions to substance abuse treatment programs funded by the Department of Health, Alcohol, Drugs and Other Drugs of the State;

“(ii) in 2000, the prevalence of cigarette smoking by Native Hawaiians was 31.0 percent, a rate that is 57 percent higher than that for the total population in the State, which is 19.7 percent;

“(iii) Native Hawaiians have the highest prevalence rate of acute alcohol drinking (19.6 percent), a rate that is 40 percent higher than that for the total population in the State;

“(iv) the chronic alcohol drinking rate among Native Hawaiians is 54 percent higher than that for all other racial groups in the State;

“(v) in 1991, 40 percent of Native Hawaiian adults surveyed reported having used marijuana, as compared with 30 percent for all other racial groups in the State; and

“(vi) 9 percent of the Native Hawaiian adults surveyed reported that they use or have used marijuana within the year preceding the survey, as compared with 6 percent for all other racial groups in the State.

“(B) CRIME.—With respect to crime—

“(i) in 1998, of the 7,789 arrests that were made for property crimes in the State, arrests of Native Hawaiians comprised 23 percent;

“(ii) Native Hawaiians comprised 40 percent of juvenile arrests in 1998, the largest percentage of all juvenile arrests in that year;

“(iii) in the period of 1996 through 1998, the overrepresentation of Native Hawaiian juvenile arrests for index crimes and Part II offenses increased by 6 percent and 2 percent, respectively;

“(iv) in 1998, Native Hawaiians represented 22 percent of the 2,423 adults arrested for drug-related offenses in the State;

“(v) Native Hawaiians are overrepresented in the prison population in the State;

“(vi) of the 2,260 incarcerated Native Hawaiians, 70 percent are between 20 and 40 years of age;

“(vii) in 1995 and 1996, Native Hawaiians comprised 36.5 percent of the sentenced felon prison population in Hawaii, as compared with 20.5 percent for Caucasian Americans, 3.7 percent for Japanese Americans, and 6 percent for Chinese Americans;

“(viii) in 2002, Native Hawaiians comprised 40 percent of the total sentenced felon population in the State, as compared with 25 percent for Caucasian Americans, 12 percent for Filipino Americans, 6 percent for Japanese Americans, and 5 percent for Samoans; and

“(ix) based on anecdotal information from inmates at the Halawa Correction Facilities,

Native Hawaiians are estimated to comprise between 60 and 70 percent of all inmates in the State.

“(8) OBESITY.—Native Hawaiians have the highest prevalence rate of overweightness and obesity (69.4 percent), a rate that is 38 percent higher than that for the total State population (50.2 percent).

“(9) HEALTH PROFESSIONS EDUCATION AND TRAINING.—With respect to health professions education and training—

“(A)(i) Native Hawaiians who are at least 25 years of age have a comparable rate of high school completion as compared with all people in the State who are at least 25 years of age; but

“(ii) the rate of baccalaureate degree achievement among Native Hawaiians is 6.9 percent, which is less than the average in the State (15.76 percent);

“(B) Native Hawaiian physicians make up 4 percent of the total physician workforce in the State; and

“(C)(i) in fiscal year 1999, Native Hawaiians comprised—

“(I) 9 percent of those individuals who earned Bachelor's degrees;

“(II) 15 percent of those individuals who earned 2-year diplomas; and

“(III) 6 percent of those individuals who earned Master's degrees; and

“(ii) in 1997, Native Hawaiians comprised less than 1 percent of individuals who earned doctoral degrees at the University of Hawaii.

### “SEC. 3. DEFINITIONS.

“In this Act:

“(1) DEPARTMENT.—The term ‘Department’ means the Department of Health and Human Services.

“(2) DISEASE PREVENTION.—The term ‘disease prevention’ includes—

“(A) immunizations;

“(B) control of high blood pressure;

“(C) control of sexually transmittable diseases;

“(D) prevention and control of chronic diseases;

“(E) control of toxic agents;

“(F) occupational safety and health;

“(G) injury prevention;

“(H) fluoridation of water;

“(I) control of infectious agents; and

“(J) provision of mental health care.

“(3) HEALTH PROMOTION.—The term ‘health promotion’ includes—

“(A) pregnancy and infant care, including prevention of fetal alcohol syndrome;

“(B) cessation of tobacco smoking;

“(C) reduction in the misuse of alcohol and harmful illicit drugs;

“(D) improvement of nutrition;

“(E) improvement in physical fitness;

“(F) family planning;

“(G) control of stress;

“(H) reduction of major behavioral risk factors and promotion of healthy lifestyle practices; and

“(I) integration of cultural approaches to health and well-being (including traditional practices relating to the atmosphere (lewa lani), land (‘aina), water (wai), and ocean (kai)).

“(4) HEALTH SERVICE.—The term ‘health service’ means—

“(A) service provided by a physician, physician's assistant, nurse practitioner, nurse, dentist, or other health professional;

“(B) a diagnostic laboratory or radiologic service;

“(C) a preventive health service (including a perinatal service, well child service, family planning service, nutrition service, home health service, sports medicine and athletic training service, and, generally, any service associated with enhanced health and wellness);

“(D) emergency medical service, including a service provided by a first responder, emergency medical technician, or mobile intensive care technician;

“(E) a transportation service required for adequate patient care;

“(F) a preventive dental service;

“(G) a pharmaceutical and medicament service;

“(H) a mental health service, including a service provided by a psychologist or social worker;

“(I) a genetic counseling service;

“(J) a health administration service, including a service provided by a health program administrator;

“(K) a health research service, including a service provided by an individual with an advanced degree in medicine, nursing, psychology, social work, or any other related health program;

“(L) an environmental health service, including a service provided by an epidemiologist, public health official, medical geographer, or medical anthropologist, or an individual specializing in biological, chemical, or environmental health determinants;

“(M) a primary care service that may lead to specialty or tertiary care; and

“(N) a complementary healing practice, including a practice performed by a traditional Native Hawaiian healer.

“(5) NATIVE HAWAIIAN.—The term ‘Native Hawaiian’ means any individual who is Kanaka Maoli (a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State), as evidenced by—

“(A) genealogical records;

“(B) kama’aina witness verification from Native Hawaiian Kupuna (elders); or

“(C) birth records of the State or any other State or territory of the United States.

“(6) NATIVE HAWAIIAN HEALTH CARE SYSTEM.—The term ‘Native Hawaiian health care system’ means any of up to 8 entities in the State that—

“(A) is organized under the laws of the State;

“(B) provides or arranges for the provision of health services for Native Hawaiians in the State;

“(C) is a public or nonprofit private entity;

“(D) has Native Hawaiians significantly participating in the planning, management, provision, monitoring, and evaluation of health services;

“(E) addresses the health care needs of an island’s Native Hawaiian population; and

“(F) is recognized by Papa Ola Lokahi—

“(i) for the purpose of planning, conducting, or administering programs, or portions of programs, authorized by this Act for the benefit of Native Hawaiians; and

“(ii) as having the qualifications and the capacity to provide the services and meet the requirements under—

“(I) the contract that each Native Hawaiian health care system enters into with the Secretary under this Act; or

“(II) the grant each Native Hawaiian health care system receives from the Secretary under this Act.

“(7) NATIVE HAWAIIAN HEALTH CENTER.—The term ‘Native Hawaiian Health Center’ means any organization that is a primary health care provider that—

“(A) has a governing board composed of individuals, at least 50 percent of whom are Native Hawaiians;

“(B) has demonstrated cultural competency in a predominantly Native Hawaiian community;

“(C) serves a patient population that—

“(i) is made up of individuals at least 50 percent of whom are Native Hawaiian; or

“(ii) has not less than 2,500 Native Hawaiians as annual users of services; and

“(D) is recognized by Papa Ola Lokahi as having met each of the criteria described in subparagraphs (A) through (C).

“(8) NATIVE HAWAIIAN HEALTH TASK FORCE.—The term ‘Native Hawaiian Health Task Force’ means a task force established by the State Council of Hawaiian Homestead Associations to implement health and wellness strategies in Native Hawaiian communities.

“(9) NATIVE HAWAIIAN ORGANIZATION.—The term ‘Native Hawaiian organization’ means any organization that—

“(A) serves the interests of Native Hawaiians; and

“(B)(i) is recognized by Papa Ola Lokahi for planning, conducting, or administering programs authorized under this Act for the benefit of Native Hawaiians; and

“(ii) is a public or nonprofit private entity.

“(10) OFFICE OF HAWAIIAN AFFAIRS.—The term ‘Office of Hawaiian Affairs’ means the governmental entity that—

“(A) is established under article XII, sections 5 and 6, of the Hawaii State Constitution; and

“(B) charged with the responsibility to formulate policy relating to the affairs of Native Hawaiians.

“(11) PAPA OLA LOKAHI.—

“(A) IN GENERAL.—The term ‘Papa Ola Lokahi’ means an organization that—

“(i) is composed of public agencies and private organizations focusing on improving the health status of Native Hawaiians; and

“(ii) governed by a board the members of which may include representation from—

“(I) E Ola Mau;

“(II) the Office of Hawaiian Affairs;

“(III) Alu Like, Inc.;

“(IV) the University of Hawaii;

“(V) the Hawaii State Department of Health;

“(VI) the Native Hawaiian Health Task Force;

“(VII) the Hawaii State Primary Care Association;

“(VIII) Ahahui O Na Kauka, the Native Hawaiian Physicians Association;

“(IX) Ho’ola Lahui Hawaii, or a health care system serving the islands of Kaua’i or Ni’ihau (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands);

“(X) Ke Ola Mamo, or a health care system serving the island of O’ahu (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island);

“(XI) Na Pu’uwai or a health care system serving the islands of Moloka’i or Lana’i (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands);

“(XII) Hui No Ke Ola Pono, or a health care system serving the island of Maui (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island);

“(XIII) Hui Malama Ola Na ‘Oiwai, or a health care system serving the island of Hawaii (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island);

“(XIV) such other Native Hawaiian health care systems as are certified and recognized by Papa Ola Lokahi in accordance with this Act; and

“(XV) such other member organizations as the Board of Papa Ola Lokahi shall admit from time to time, based on satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians.

“(B) EXCLUSION.—The term ‘Papa Ola Lokahi’ does not include any organization described in subparagraph (A) for which the Secretary has made a determination that the organization has not developed a mission statement that includes—

“(i) clearly-defined goals and objectives for the contributions the organization will make to—

“(I) Native Hawaiian health care systems; and

“(II) the national policy described in section 4; and

“(ii) an action plan for carrying out those goals and objectives.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(13) STATE.—The term ‘State’ means the State of Hawaii.

“(14) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term ‘traditional Native Hawaiian healer’ means a practitioner—

“(A) who—

“(i) is of Native Hawaiian ancestry; and

“(ii) has the knowledge, skills, and experience in direct personal health care of individuals; and

“(B) the knowledge, skills, and experience of whom are based on demonstrated learning of Native Hawaiian healing practices acquired by—

“(i) direct practical association with Native Hawaiian elders; and

“(ii) oral traditions transmitted from generation to generation.

#### “SEC. 4. DECLARATION OF NATIONAL NATIVE HAWAIIAN HEALTH POLICY.

“(a) DECLARATION.—Congress declares that it is the policy of the United States, in fulfillment of special responsibilities and legal obligations of the United States to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the indigenous people of Hawaii—

“(1) to raise the health status of Native Hawaiians to the highest practicable health level; and

“(2) to provide Native Hawaiian health care programs with all resources necessary to effectuate that policy.

“(b) INTENT OF CONGRESS.—It is the intent of Congress that—

“(1) health care programs having a demonstrated effect of substantially reducing or eliminating the overrepresentation of Native Hawaiians among those suffering from chronic and acute disease and illness, and addressing the health needs of Native Hawaiians (including perinatal, early child development, and family-based health education needs), shall be established and implemented; and

“(2) the United States—

“(A) raise the health status of Native Hawaiians by the year 2010 to at least the levels described in the goals contained within Healthy People 2010 (or successor standards); and

“(B) incorporate within health programs in the United States activities defined and identified by Kanaka Maoli, such as—

“(i) incorporating and supporting the integration of cultural approaches to health and well-being, including programs using traditional practices relating to the atmosphere (lewa lani), land (‘aina), water (wai), or ocean (kai);

“(ii) increasing the number of Native Hawaiian health and allied-health providers who provide care to or have an impact on the health status of Native Hawaiians;

“(iii) increasing the use of traditional Native Hawaiian foods in—

“(I) the diets and dietary preferences of people, including those of students; and

“(II) school feeding programs;

“(iv) identifying and instituting Native Hawaiian cultural values and practices within the corporate cultures of organizations and agencies providing health services to Native Hawaiians;

“(v) facilitating the provision of Native Hawaiian healing practices by Native Hawaiian healers for individuals desiring that assistance;

“(vi) supporting training and education activities and programs in traditional Native Hawaiian healing practices by Native Hawaiian healers; and

“(vii) demonstrating the integration of health services for Native Hawaiians, particularly those that integrate mental, physical, and dental services in health care.

“(c) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to Congress under section 12, a report on the progress made toward meeting the national policy described in this section.

#### **“SEC. 5. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS.**

“(a) DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of coordinating, implementing, and updating a Native Hawaiian comprehensive health care master plan that is designed—

“(A) to promote comprehensive health promotion and disease prevention services;

“(B) to maintain and improve the health status of Native Hawaiians; and

“(C) to support community-based initiatives that are reflective of holistic approaches to health.

“(2) CONSULTATION.—

“(A) IN GENERAL.—In carrying out this section, Papa Ola Lokahi and the Office of Hawaiian Affairs shall consult with representatives of—

“(i) the Native Hawaiian health care systems;

“(ii) the Native Hawaiian health centers; and

“(iii) the Native Hawaiian community.

“(B) MEMORANDA OF UNDERSTANDING.—Papa Ola Lokahi and the Office of Hawaiian Affairs may enter into memoranda of understanding or agreement for the purpose of acquiring joint funding, or for such other purposes as are necessary, to accomplish the objectives of this section.

“(3) HEALTH CARE FINANCING STUDY REPORT.—

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Native Hawaiian Health Care Improvement Reauthorization Act of 2005, Papa Ola Lokahi, in cooperation with the Office of Hawaiian Affairs and other appropriate agencies and organizations in the State (including the Department of Health and the Department of Human Services of the State) and appropriate Federal agencies (including the Centers for Medicare and Medicaid Services), shall submit to Congress a report that describes the impact of Federal and State health care financing mechanisms and policies on the health and well-being of Native Hawaiians.

“(B) COMPONENTS.—The report shall include—

“(i) information concerning the impact on Native Hawaiian health and well-being of—

“(I) cultural competency;

“(II) risk assessment data;

“(III) eligibility requirements and exemptions; and

“(IV) reimbursement policies and capitation rates in effect as of the date of the report for service providers;

“(ii) such other similar information as may be important to improving the health status of Native Hawaiians, as that informa-

tion relates to health care financing (including barriers to health care); and

“(iii) recommendations for submission to the Secretary, for review and consultation with the Native Hawaiian community.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (a).

#### **“SEC. 6. FUNCTIONS OF PAPA OLA LOKAHI AND OFFICE OF HAWAIIAN AFFAIRS.**

“(a) IN GENERAL.—Papa Ola Lokahi—

“(1) shall be responsible for—

“(A) the coordination, implementation, and updating, as appropriate, of the comprehensive health care master plan under section 5;

“(B) the training and education of individuals providing health services;

“(C) the identification of and research (including behavioral, biomedical, epidemiological, and health service research) into the diseases that are most prevalent among Native Hawaiians; and

“(D) the development and maintenance of an institutional review board for all research projects involving all aspects of Native Hawaiian health, including behavioral, biomedical, epidemiological, and health service research;

“(2) may receive special project funds (including research endowments under section 736 of the Public Health Service Act (42 U.S.C. 293)) made available for the purpose of—

“(A) research on the health status of Native Hawaiians; or

“(B) addressing the health care needs of Native Hawaiians; and

“(3) shall serve as a clearinghouse for—

“(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

“(B) the identification and research into diseases affecting Native Hawaiians;

“(C) the availability of Native Hawaiian project funds, research projects, and publications;

“(D) the collaboration of research in the area of Native Hawaiian health; and

“(E) the timely dissemination of information pertinent to the Native Hawaiian health care systems.

“(b) CONSULTATION.—

“(1) IN GENERAL.—The Secretary and the Secretary of each other Federal agency shall—

“(A) consult with Papa Ola Lokahi; and

“(B) provide Papa Ola Lokahi and the Office of Hawaiian Affairs, at least once annually, an accounting of funds and services provided by the Secretary to assist in accomplishing the purposes described in section 4.

“(2) COMPONENTS OF ACCOUNTING.—The accounting under paragraph (1)(B) shall include an identification of—

“(A) the amount of funds expended explicitly for and benefiting Native Hawaiians;

“(B) the number of Native Hawaiians affected by those funds;

“(C) the collaborations between the applicable Federal agency and Native Hawaiian groups and organizations in the expenditure of those funds; and

“(D) the amount of funds used for—

“(i) Federal administrative purposes; and

“(ii) the provision of direct services to Native Hawaiians.

“(c) FISCAL ALLOCATION AND COORDINATION OF PROGRAMS AND SERVICES.—

“(1) RECOMMENDATIONS.—Papa Ola Lokahi shall provide annual recommendations to the Secretary with respect to the allocation of all amounts made available under this Act.

“(2) COORDINATION.—Papa Ola Lokahi shall, to the maximum extent practicable, coordinate and assist the health care programs and services provided to Native Ha-

waiians under this Act and other Federal laws.

“(3) REPRESENTATION ON COMMISSION.—The Secretary, in consultation with Papa Ola Lokahi, shall make recommendations for Native Hawaiian representation on the President's Advisory Commission on Asian Americans and Pacific Islanders.

“(d) TECHNICAL SUPPORT.—Papa Ola Lokahi shall provide statewide infrastructure to provide technical support and coordination of training and technical assistance to—

“(1) the Native Hawaiian health care systems; and

“(2) the Native Hawaiian health centers.

“(e) RELATIONSHIPS WITH OTHER AGENCIES.—

“(1) AUTHORITY.—Papa Ola Lokahi may enter into agreements or memoranda of understanding with relevant institutions, agencies, or organizations that are capable of providing—

“(A) health-related resources or services to Native Hawaiians and the Native Hawaiian health care systems; or

“(B) resources or services for the implementation of the national policy described in section 4.

“(2) HEALTH CARE FINANCING.—

“(A) FEDERAL CONSULTATION.—

“(i) IN GENERAL.—Before adopting any policy, rule, or regulation that may affect the provision of services or health insurance coverage for Native Hawaiians, a Federal agency that provides health care financing and carries out health care programs (including the Centers for Medicare and Medicaid Services) shall consult with representatives of—

“(I) the Native Hawaiian community;

“(II) Papa Ola Lokahi; and

“(III) organizations providing health care services to Native Hawaiians in the State.

“(ii) IDENTIFICATION OF EFFECTS.—Any consultation by a Federal agency under clause (i) shall include an identification of the effect of any policy, rule, or regulation proposed by the Federal agency.

“(B) STATE CONSULTATION.—Before making any change in an existing program or implementing any new program relating to Native Hawaiian health, the State shall engage in meaningful consultation with representatives of—

“(i) the Native Hawaiian community;

“(ii) Papa Ola Lokahi; and

“(iii) organizations providing health care services to Native Hawaiians in the State.

“(C) CONSULTATION ON FEDERAL HEALTH INSURANCE PROGRAMS.—

“(i) IN GENERAL.—The Office of Hawaiian Affairs, in collaboration with Papa Ola Lokahi, may develop consultative, contractual, or other arrangements, including memoranda of understanding or agreement, with—

“(I) the Centers for Medicare and Medicaid Services;

“(II) the agency of the State that administers or supervises the administration of the State plan or waiver approved under title XVIII, XIX, or XXI of the Social Security Act (42 U.S.C. 1395 et seq.) for the payment of all or a part of the health care services provided to Native Hawaiians who are eligible for medical assistance under the State plan or waiver; or

“(III) any other Federal agency providing full or partial health insurance to Native Hawaiians.

“(ii) CONTENTS OF ARRANGEMENTS.—An arrangement under clause (i) may address—

“(I) appropriate reimbursement for health care services, including capitation rates and fee-for-service rates for Native Hawaiians who are entitled to or eligible for insurance;

“(II) the scope of services; or

“(III) other matters that would enable Native Hawaiians to maximize health insurance benefits provided by Federal and State health insurance programs.

“(3) TRADITIONAL HEALERS.—

“(A) IN GENERAL.—The provision of health services under any program operated by the Department or another Federal agency (including the Department of Veterans Affairs) may include the services of—

“(i) traditional Native Hawaiian healers; or

“(ii) traditional healers providing traditional health care practices (as those terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

“(B) EXEMPTION.—Services described in subparagraph (A) shall be exempt from national accreditation reviews, including reviews conducted by—

“(i) the Joint Commission on Accreditation of Healthcare Organizations; and

“(ii) the Commission on Accreditation of Rehabilitation Facilities.

**“SEC. 7. NATIVE HAWAIIAN HEALTH CARE.**

“(a) COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND OTHER HEALTH SERVICES.—

“(1) GRANTS AND CONTRACTS.—The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with 1 or more Native Hawaiian health care systems for the purpose of providing comprehensive health promotion and disease prevention services, as well as other health services, to Native Hawaiians who desire and are committed to bettering their own health.

“(2) LIMITATION ON NUMBER OF ENTITIES.—The Secretary may make a grant to, or enter into a contract with, not more than 8 Native Hawaiian health care systems under this subsection for any fiscal year.

“(b) PLANNING GRANT OR CONTRACT.—In addition to grants and contracts under subsection (a), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on each of the islands of O’ahu, Molokai, Maui, Hawaii, Lanai, Kauai, Kaho’lawe, and Ni’ihau in the State.

“(c) HEALTH SERVICES TO BE PROVIDED.—

“(1) IN GENERAL.—Each recipient of funds under subsection (a) may provide or arrange for—

“(A) outreach services to inform and assist Native Hawaiians in accessing health services;

“(B) education in health promotion and disease prevention for Native Hawaiians that, wherever practicable, is provided by—

“(i) Native Hawaiian health care practitioners;

“(ii) community outreach workers;

“(iii) counselors;

“(iv) cultural educators; and

“(v) other disease prevention providers;

“(C) services of individuals providing health services;

“(D) collection of data relating to the prevention of diseases and illnesses among Native Hawaiians; and

“(E) support of culturally appropriate activities that enhance health and wellness, including land-based, water-based, ocean-based, and spiritually-based projects and programs.

“(2) TRADITIONAL HEALERS.—The health care services referred to in paragraph (1) that are provided under grants or contracts under subsection (a) may be provided by traditional Native Hawaiian healers, as appropriate.

“(d) FEDERAL TORT CLAIMS ACT.—An individual who provides a medical, dental, or

other service referred to in subsection (a)(1) for a Native Hawaiian health care system, including a provider of a traditional Native Hawaiian healing service, shall be—

“(1) treated as if the individual were a member of the Public Health Service; and

“(2) subject to section 224 of the Public Health Service Act (42 U.S.C. 233).

“(e) SITE FOR OTHER FEDERAL PAYMENTS.—

“(1) IN GENERAL.—A Native Hawaiian health care system that receives funds under subsection (a) may serve as a Federal loan repayment facility.

“(2) REMISSION OF PAYMENTS.—A facility described in paragraph (1) shall be designed to enable health and allied-health professionals to remit payments with respect to loans provided to the professionals under any Federal loan program.

“(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary shall not make a grant to, or enter into a contract with, an entity under subsection (a) unless the entity agrees that amounts received under the grant or contract will not, directly or through contract, be expended—

“(1) for any service other than a service described in subsection (c)(1);

“(2) to purchase or improve real property (other than minor remodeling of existing improvements to real property); or

“(3) to purchase major medical equipment.

“(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary shall not make a grant to, or enter into a contract with, an entity under subsection (a) unless the entity agrees that, whether health services are provided directly or under a contract—

“(1) any health service under the grant or contract will be provided without regard to the ability of an individual receiving the health service to pay for the health service; and

“(2) the entity will impose for the delivery of such a health service a charge that is—

“(A) made according to a schedule of charges that is made available to the public; and

“(B) adjusted to reflect the income of the individual involved.

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) GENERAL GRANTS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (a) for each of fiscal years 2006 through 2011.

“(2) PLANNING GRANTS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (b) for each of fiscal years 2006 through 2011.

“(3) HEALTH SERVICES.—There are authorized to be appropriated such sums as are necessary to carry out subsection (c) for each of fiscal years 2006 through 2011.

**“SEC. 8. ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI.**

“(a) IN GENERAL.—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

“(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed under section 5;

“(2) training and education for providers of health services;

“(3) identification of and research (including behavioral, biomedical, epidemiologic, and health service research) into the diseases that are most prevalent among Native Hawaiians;

“(4) a clearinghouse function for—

“(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

“(B) the identification and research into diseases affecting Native Hawaiians; and

“(C) the availability of Native Hawaiian project funds, research projects, and publications;

“(5) the establishment and maintenance of an institutional review board for all health-related research involving Native Hawaiians;

“(6) the coordination of the health care programs and services provided to Native Hawaiians; and

“(7) the administration of special project funds.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (a) for each of fiscal years 2006 through 2011.

**“SEC. 9. ADMINISTRATION OF GRANTS AND CONTRACTS.**

“(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of the grant or contract are achieved.

“(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

“(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary shall not make a grant or enter into a contract under this Act with an entity unless the entity—

“(1) agrees to establish such procedures for fiscal control and fund accounting as the Secretary determines are necessary to ensure proper disbursement and accounting with respect to the grant or contract;

“(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

“(3) with respect to providing health services to any population of Native Hawaiians, a substantial portion of which has a limited ability to speak the English language—

“(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

“(B) has designated at least 1 individual who is fluent in English and the appropriate language to assist in carrying out the plan;

“(4) with respect to health services that are covered under a program under title XVIII, XIX, or XXI of the Social Security Act (42 U.S.C. 1395 et seq.) (including any State plan), or under any other Federal health insurance plan—

“(A) if the entity will provide under the grant or contract any of those health services directly—

“(i) has entered into a participation agreement under each such plan; and

“(ii) is qualified to receive payments under the plan; and

“(B) if the entity will provide under the grant or contract any of those health services through a contract with an organization—

“(i) ensures that the organization has entered into a participation agreement under each such plan; and

“(ii) ensures that the organization is qualified to receive payments under the plan; and

“(5) agrees to submit to the Secretary and Papa Ola Lokahi an annual report that—

“(A) describes the use and costs of health services provided under the grant or contract (including the average cost of health services per user); and

“(B) provides such other information as the Secretary determines to be appropriate.

“(d) CONTRACT EVALUATION.—

“(1) DETERMINATION OF NONCOMPLIANCE.—If, as a result of evaluations conducted by the

Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 7, the Secretary shall, before renewing the contract—

“(A) attempt to resolve the areas of non-compliance or unsatisfactory performance; and

“(B) modify the contract to prevent future occurrences of the noncompliance or unsatisfactory performance.

“(2) NONRENEWAL.—If the Secretary determines that the noncompliance or unsatisfactory performance described in paragraph (1) with respect to an entity cannot be resolved and prevented in the future, the Secretary—

“(A) shall not renew the contract with the entity; and

“(B) may enter into a contract under section 7 with another entity referred to in section 7(a)(3) that provides services to the same population of Native Hawaiians served by the entity the contract with which was not renewed by reason of this paragraph.

“(3) CONSIDERATION OF RESULTS.—In determining whether to renew a contract entered into with an entity under this Act, the Secretary shall consider the results of the evaluations conducted under this section.

“(4) APPLICATION OF FEDERAL LAWS.—Each contract entered into by the Secretary under this Act shall be in accordance with all Federal contracting laws (including regulations), except that, in the discretion of the Secretary, such a contract may—

“(A) be negotiated without advertising; and

“(B) be exempted from subchapter III of chapter 31, United States Code.

“(5) PAYMENTS.—A payment made under any contract entered into under this Act—

“(A) may be made—

“(i) in advance;

“(ii) by means of reimbursement; or

“(iii) in installments; and

“(B) shall be made on such conditions as the Secretary determines to be necessary to carry out this Act.

“(e) REPORT.—

“(1) IN GENERAL.—For each fiscal year during which an entity receives or expends funds under a grant or contract under this Act, the entity shall submit to the Secretary and to Papa Ola Lokahi an annual report that describes—

“(A) the activities conducted by the entity under the grant or contract;

“(B) the amounts and purposes for which Federal funds were expended; and

“(C) such other information as the Secretary may request.

“(2) AUDITS.—The reports and records of any entity concerning any grant or contract under this Act shall be subject to audit by—

“(A) the Secretary;

“(B) the Inspector General of the Department of Health and Human Services; and

“(C) the Comptroller General of the United States.

“(f) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this Act the cost of an annual private audit conducted by a certified public accountant to carry out this section.

#### “SEC. 10. ASSIGNMENT OF PERSONNEL.

“(a) IN GENERAL.—The Secretary may enter into an agreement with Papa Ola Lokahi or any of the Native Hawaiian health care systems for the assignment of personnel of the Department of Health and Human Services with relevant expertise for the purpose of—

“(1) conducting research; or

“(2) providing comprehensive health promotion and disease prevention services and health services to Native Hawaiians.

“(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under subsection (a) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

#### “SEC. 11. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS AND FELLOWSHIPS.

“(a) ELIGIBILITY.—Subject to the availability of amounts appropriated under subsection (c), the Secretary shall provide to Papa Ola Lokahi, through a direct grant or a cooperative agreement, funds for the purpose of providing scholarship and fellowship assistance, counseling, and placement service assistance to students who are Native Hawaiians.

“(b) PRIORITY.—A priority for scholarships under subsection (a) may be provided to employees of—

“(1) the Native Hawaiian Health Care Systems; and

“(2) the Native Hawaiian Health Centers.

“(c) TERMS AND CONDITIONS.—

“(1) SCHOLARSHIP ASSISTANCE.—

“(A) IN GENERAL.—The scholarship assistance under subsection (a) shall be provided in accordance with subparagraphs (B) through (G).

“(B) NEED.—The provision of scholarships in each type of health profession training shall correspond to the need for each type of health professional to serve the Native Hawaiian community in providing health services, as identified by Papa Ola Lokahi.

“(C) ELIGIBLE APPLICANTS.—To the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by Papa Ola Lokahi.

“(D) OBLIGATED SERVICE REQUIREMENT.—

“(i) IN GENERAL.—An obligated service requirement for each scholarship recipient (except for a recipient receiving assistance under paragraph (2)) shall be fulfilled through service, in order of priority, in—

“(I) any of the Native Hawaiian health care systems;

“(II) any of the Native Hawaiian health centers;

“(III) 1 or more health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the Public Health Service in the State;

“(IV) a Native Hawaiian organization that serves a geographical area, facility, or organization that serves a significant Native Hawaiian population;

“(V) any public agency or nonprofit organization providing services to Native Hawaiians; or

“(VI) any of the uniformed services of the United States.

“(ii) ASSIGNMENT.—The placement service for a scholarship shall assign each Native Hawaiian scholarship recipient to 1 or more appropriate sites for service in accordance with clause (i).

“(E) COUNSELING, RETENTION, AND SUPPORT SERVICES.—The provision of academic and personal counseling, retention and other support services—

“(i) shall not be limited to scholarship recipients under this section; and

“(ii) shall be made available to recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs.

“(F) FINANCIAL ASSISTANCE.—After consultation with Papa Ola Lokahi, financial assistance may be provided to a scholarship recipient during the period that the recipient is fulfilling the service requirement of the recipient in any of—

“(i) the Native Hawaiian health care systems; or

“(ii) the Native Hawaiians health centers.

“(G) DISTANCE LEARNING RECIPIENTS.—A scholarship may be provided to a Native Hawaiian who is enrolled in an appropriate distance learning program offered by an accredited educational institution.

“(2) FELLOWSHIPS.—

“(A) IN GENERAL.—Papa Ola Lokahi may provide financial assistance in the form of a fellowship to a Native Hawaiian health professional who is—

“(i) a Native Hawaiian community health representative, outreach worker, or health program administrator in a professional training program;

“(ii) a Native Hawaiian providing health services; or

“(iii) a Native Hawaiian enrolled in a certificated program provided by traditional Native Hawaiian healers in any of the traditional Native Hawaiian healing practices (including lomi-lomi, la'au lapa'au, and ho'oponopono).

“(B) TYPES OF ASSISTANCE.—Assistance under subparagraph (A) may include a stipend for, or reimbursement for costs associated with, participation in a program described in that paragraph.

“(3) RIGHTS AND BENEFITS.—An individual who is a health professional designated in section 338A of the Public Health Service Act (42 U.S.C. 254) who receives a scholarship under this subsection while fulfilling a service requirement under that Act shall retain the same rights and benefits as members of the National Health Service Corps during the period of service.

“(4) NO INCLUSION OF ASSISTANCE IN GROSS INCOME.—Financial assistance provided under this section shall be considered to be qualified scholarships for the purpose of section 117 of the Internal Revenue Code of 1986.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out subsections (a) and (c)(2) for each of fiscal years 2006 through 2011.

#### “SEC. 12. REPORT.

“For each fiscal year, the President shall, at the time at which the budget of the United States is submitted under section 1105 of title 31, United States Code, submit to Congress a report on the progress made in meeting the purposes of this Act, including—

“(1) a review of programs established or assisted in accordance with this Act; and

“(2) an assessment of and recommendations for additional programs or additional assistance necessary to provide, at a minimum, health services to Native Hawaiians, and ensure a health status for Native Hawaiians, that are at a parity with the health services available to, and the health status of, the general population.

#### “SEC. 13. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

“(a) IN GENERAL.—The Secretary shall permit an organization that enters into a contract or receives grant under this Act to use in carrying out projects or activities under the contract or grant all existing facilities under the jurisdiction of the Secretary (including all equipment of the facilities), in accordance with such terms and conditions as may be agreed on for the use and maintenance of the facilities or equipment.

“(b) DONATION OF PROPERTY.—The Secretary may donate to an organization that enters into a contract or receives grant under this Act, for use in carrying out a project or activity under the contract or grant, any personal or real property determined to be in excess of the needs of the Department or the General Services Administration.

“(c) ACQUISITION OF SURPLUS PROPERTY.—The Secretary may acquire excess or surplus Federal Government personal or real property for donation to an organization under subsection (b) if the Secretary determines that the property is appropriate for use by the organization for the purpose for which a contract entered into or grant received by the organization is authorized under this Act.

**“SEC. 14. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.**

**“(a) AUTHORITY AND AREAS OF INTEREST.—**

“(1) IN GENERAL.—The Secretary, in consultation with Papa Ola Lokahi, may allocate amounts made available under this Act, or any other Act, to carry out Native Hawaiian demonstration projects of national significance.

“(2) AREAS OF INTEREST.—A demonstration project described in paragraph (1) may relate to such areas of interest as—

“(A) the development of a centralized database and information system relating to the health care status, health care needs, and wellness of Native Hawaiians;

“(B) the education of health professionals, and other individuals in institutions of higher learning, in health and allied health programs in healing practices, including Native Hawaiian healing practices;

“(C) the integration of Western medicine with complementary healing practices, including traditional Native Hawaiian healing practices;

“(D) the use of telehealth and telecommunications in—

“(i) chronic and infectious disease management; and

“(ii) health promotion and disease prevention;

“(E) the development of appropriate models of health care for Native Hawaiians and other indigenous people, including—

“(i) the provision of culturally competent health services;

“(ii) related activities focusing on wellness concepts;

“(iii) the development of appropriate kupuna care programs; and

“(iv) the development of financial mechanisms and collaborative relationships leading to universal access to health care; and

“(F) the establishment of—

“(i) a Native Hawaiian Center of Excellence for Nursing at the University of Hawaii at Hilo;

“(ii) a Native Hawaiian Center of Excellence for Mental Health at the University of Hawaii at Manoa;

“(iii) a Native Hawaiian Center of Excellence for Maternal Health and Nutrition at the Waimanalo Health Center;

“(iv) a Native Hawaiian Center of Excellence for Research, Training, Integrated Medicine at Molokai General Hospital; and

“(v) a Native Hawaiian Center of Excellence for Complementary Health and Health Education and Training at the Waianae Coast Comprehensive Health Center.

“(3) CENTERS OF EXCELLENCE.—Papa Ola Lokahi, and any centers established under paragraph (2)(F), shall be considered to be qualified as Centers of Excellence under sections 485F and 903(b)(2)(A) of the Public Health Service Act (42 U.S.C. 287c–32, 299a–1).

“(b) NONREDUCTION IN OTHER FUNDING.—The allocation of funds for demonstration projects under subsection (a) shall not result in any reduction in funds required by the Native Hawaiian health care systems, the Native Hawaiian Health Centers, the Native Hawaiian Health Scholarship Program, or Papa Ola Lokahi to carry out the respective responsibilities of those entities under this Act.

**“SEC. 15. RULE OF CONSTRUCTION.**

“Nothing in this Act restricts the authority of the State to require licensing of, and issue licenses to, health practitioners.

**“SEC. 16. COMPLIANCE WITH BUDGET ACT.**

“Any new spending authority described in subparagraph (A) or (B) of section 401(c)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2)) that is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided for in Acts of appropriation.

**“SEC. 17. SEVERABILITY.**

“If any provision of this Act, or the application of any such provision to any person or circumstance, is determined by a court of competent jurisdiction to be invalid, the remainder of this Act, and the application of the provision to a person or circumstance other than that to which the provision is held invalid, shall not be affected by that holding.”

By Mr. INOUE:

S. 216. A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

Mr. INOUE. Mr. President, almost ten years ago, I stood before you to introduce a bill “to provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims.”

That bill was introduced as Senate Resolution 223, which referred the Pottawatomi's claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings of fact and conclusions of law to enable the Congress to determine whether the claim of the Pottawatomi Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Five years ago, the Chief Judge of the Court of Federal Claims reported back that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. Thereafter, by settlement stipulation, the United States has taken the position that it would be “fair, just and equitable” to settle the claims of the Pottawatomi Nation in Canada for the sum of \$1,830,000. This settlement amount was reached by the parties after seven years of extensive, fact-intensive litigation. Independently, the court concluded that the settlement amount is “not a gratuity” and that the “settlement was predicated on a credible legal claim.” *Pottawatomi Nation in Canada, et al. v. United States*, Cong. Ref. 94-1037X at 28 (Ct. Fed. Cl., September 15, 2000) (Report of Hearing Officer).

The bill I introduce today is to authorize the appropriation of those funds that the United States has concluded would be “fair, just and equitable” to satisfy this legal claim. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

For the information of our colleagues, this is the historical background that informs the underlying legal claim of the Canadian Pottawatomi.

The members of the Pottawatomi Nation in Canada are one of the descendant groups—successors-in-interest—of the historical Pottawatomi Nation and their claim originates in the latter part of the 18th century. The historical Pottawatomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin. From 1795 to 1833, the United States annexed most of the traditional land of the Pottawatomi Nation through a series of treaties of cession—many of these cessions were made under extreme duress and the threat of military action. In exchange, the Pottawatomis were repeatedly made promises that the remainder of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi.

In 1829, the United States formally adopted a Federal the policy of removal—an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of that effort, the government increasingly pressured the Pottawatomis to cede the remainder of their traditional lands—some five million acres in and around the city of Chicago and remove themselves west. For years, the Pottawatomis steadfastly refused to cede the remainder of their tribal territory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawatomi with orders to extract a cession of the remaining lands. The Treaty Commissioners spent 2 weeks using extraordinarily coercive tactics—including threats of war—in an attempt to get the Pottawatomis to agree to cede their territory. Finally, those Pottawatomis who were present relented and on September 26, 1833, they ceded their remaining tribal estate through what would be known as the Treaty of Chicago. Seventy-seven members of the Pottawatomi Nation signed the Treaty of Chicago. Members of the “Wisconsin Band” were not present and did not assent to the cession.

In exchange for their land, the Treaty of Chicago provided that the United States would give to the Pottawatomis 5 million acres of comparable land in what is now Missouri. The Pottawatomi were familiar with the Missouri land, aware that it was similar to their homeland. But the Senate refused to ratify that negotiated agreement and unilaterally switched the land to five million acres in Iowa. The Treaty Commissioners were sent back to acquire Pottawatomi assent to the Iowa land. All but seven of the original 77 signatories refused to accept the change even with promises that if they were dissatisfied “justice would be



done." Treaty of Chicago, as amended, Article 4. Nevertheless, the Treaty of Chicago was ratified as amended by the Senate in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was "not fit for snakes to live on."

While some Pottawatomis removed westward, many of the Pottawatomis—particularly the Wisconsin Band, whose leaders never agreed to the Treaty—refused to do so. By 1836, the United States began to forcefully remove Pottawatomis who remained in the east—with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomis were forcefully removed by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

Knowing of these conditions, many of the Pottawatomis including most of those in the Wisconsin Band vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Band ultimately found it necessary to flee to Canada. They were often pursued to the border by government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomis were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused payment of annuities to any Pottawatomis groups that had not removed west. In the 1860s, members of the Wisconsin Band—those still in their traditional territory and those forced to flee to Canada—petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864 (13 Stat. 172) the Congress declared that the Wisconsin Band did not forfeit their annuities by not removing and directed that the share of the Pottawatomis Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. (H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949). Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band—most of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario—petitioned the Senate once again to pay them their fair portion of annuities as required by the law and treaties. (Sen. Doc. No. 185, 57th Cong., 2d Sess.) By the Act of June 21, 1906 (34 Stat. 380), the Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and establish a roll of the

Wisconsin Band Pottawatomis that still remained in the East. In addition, the Congress ordered the Secretary to determine "the[] [Wisconsin Bands] proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong in which the claimant Indians have not shared, [and] the amount of such monies retained in the Treasury of the United States to the credit of the claimant Indians as directed the provision of the Act of June 25, 1864."

In order to carry out the 1906 Act, the Secretary of Interior directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomis in both the United States and Canada. Dr. Wooster documented 2007 Wisconsin Pottawatomis: 457 in Wisconsin and Michigan and 1550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomis in Wisconsin and Michigan was \$477,339 and that the proportionate share of annuities due the Pottawatomis Nation in Canada was \$1,517,226. The Congress thereafter enacted a series of appropriation Acts from June 30, 1913 to May 29, 1928 to satisfy most of money owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomis Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this congressional reference, they had never been provided their day in court. In 1910, the United States and Great Britain entered into an agreement for the purpose of dealing with claims between both countries, including claims of Indian tribes within their respective jurisdictions, by creating the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomis Nation in Canada diligently sought to have their claim heard in this international forum. Overlooked for more pressing international matters of the period, including the intervention of World War I, the Pottawatomis then came to the U.S. Congress for redress of their claim.

In 1946, the Congress waived its sovereign immunity and established the Indian Claims Commission for the purpose of granting tribes their long-delayed day in court. The Indian Claims Commission Act (ICCA) granted the Commission jurisdiction over claims such as the type involved here. In 1948, the Wisconsin Band Pottawatomis from both sides of the border—brought suit together in the Indian Claims Commission for recovery of damages. *Hannahville Indian Community v. U.S.*, No. 28 (Ind. Cl. Comm. Filed May 4, 1948). Unfortunately, the Indian Claims Commission dismissed Pottawatomis Nation in Canada's part of the claim ruling that the Commission had no jurisdiction to consider claims of Indians living outside territorial limits of the United States. *Hannahville Indian Com-*

*munity v. U.S.*, 115 Ct. Cl. 823 (1950). The claim of the Wisconsin Band residing in the United States that was filed in the Indian Claims Commission was finally decided in favor of the Wisconsin Band by the U.S. Claims Court in 1983. *Hannahville Indian Community v. United States*, 4 Ct. Cl. 445 (1983). The Court of Claims concluded that the Wisconsin Band was owed a member's proportionate share of unpaid annuities from 1838 through 1907 due under various treaties, including the Treaty of Chicago and entered judgment for the American Wisconsin Band Pottawatomis for any monies not paid. Still the Pottawatomis Nation in Canada was excluded because of the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomis Nation in Canada came to the Senate and after careful consideration, we finally gave them their long-awaited day in court through the congressional reference process. The court has now reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a "fair, just and equitable" resolution to this claim.

The Pottawatomis Nation in Canada has sought justice for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for us to finally live up to the promise our government made so many years ago. It will not correct all the wrongs of the past, but it is a demonstration that this government is willing to admit when it has left unfulfilled an obligation and that the United States is willing to do what we can to see that justice—so long delayed is not now denied.

Finally, I would just note that the claim of the Pottawatomis Nation in Canada is supported through specific resolutions by the National Congress of American Indians (the oldest, largest and most-representative tribal organization here in the United States), the Assembly of First Nations (which includes all recognized tribal entities in Canada), and each and every of the Pottawatomis tribal groups that remain in the United States today.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 216

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SETTLEMENT OF CERTAIN CLAIMS.

(a) AUTHORIZATION FOR PAYMENT.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary of the Treasury shall pay to the Pottawatomis Nation in Canada \$1,830,000 from amounts appropriated under section 1304 of title 31, United States Code.

(b) PAYMENT IN ACCORDANCE WITH STIPULATION FOR RECOMMENDATION OF SETTLEMENT.—The payment under subsection (a) shall—

(1) be made in accordance with the terms and conditions of the Stipulation for Recommendation of Settlement dated May 22,

2000, entered into between the Pottawatomie Nation in Canada and the United States (referred to in this Act as the "Stipulation for Recommendation of Settlement"); and

(2) be included in the report of the Chief Judge of the United States Court of Federal Claims regarding Congressional Reference No. 94-1037X, submitted to the Senate on January 4, 2001, in accordance with sections 1492 and 2509 of title 28, United States Code.

(c) **FULL SATISFACTION OF CLAIMS.**—The payment under subsection (a) shall be in full satisfaction of all claims of the Pottawatomie Nation in Canada against the United States that are referred to or described in the Stipulation for Recommendation of Settlement.

(d) **NONAPPLICABILITY.**—Notwithstanding any other provision of law, the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) does not apply to the payment under subsection (a).

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. NELSON of Nebraska, Ms. COLLINS, Mr. ROCKEFELLER, Mr. HARKIN, Mr. GRASSLEY, Mr. JEFFORDS, Mr. SCHUMER, Mr. LEAHY, Mrs. CLINTON, Mr. PRYOR, Mr. LEVIN, and Mr. SPECTER):

S. 217. A bill to amend title 49, United States Code, to preserve the essential air service program; to the Committee on Commerce, Science, and Transportation.

Mr. BINGAMAN. Mr. President, I rise today with 13 other Senators to introduce the bipartisan Essential Air Service Preservation Act of 2005. I am pleased to have my colleague Senator SNOWE as the principal cosponsor of the bill. Senator SNOWE has been a long-time champion of commercial air service in rural areas, and I appreciate her continued leadership on this important legislation. Senators BEN NELSON, COLLINS, ROCKEFELLER, HARKIN, GRASSLEY, JEFFORDS, SCHUMER, LEAHY, CLINTON, PRYOR, LEVIN, and SPECTER are also cosponsors of the bill.

Congress established the Essential Air Service Program in 1978 to ensure that communities that had commercial air service before airline deregulation could continue to receive scheduled service. Without EAS, many rural communities would have no commercial air service at all.

Our bill is very simple. It preserves Congress' intent in the Essential Air Service program by repealing a provision in the 2003 FAA reauthorization bill that would for the first time require communities to pay for their commercial air service. The legislation that imposed mandatory cost sharing on communities to retain their commercial air service had been stricken from both the House and Senate versions of the FAA reauthorization bill, but was reinserted by conferees. I believe that any program that forces communities to pay to continue to receive their commercial air service could well be the first step in the total elimination of scheduled air service for many rural communities.

Two times since mandatory cost sharing was enacted Congress has blocked it from being implemented. For fiscal years 2004 and 2005, a bipar-

tisan group of senators included language in the Department of Transportation's appropriations act that bars the use of funds to implement any mandatory cost sharing program. This bill would simply make Congress' on-going ban permanent.

All across America, small communities face ever-increasing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads or broadband telecommunications. Business development in rural areas frequently hinges on the availability of scheduled air service. For small communities, commercial air service provides a critical link to the national and international transportation system.

The Essential Air Service Program currently ensures commercial air service to over 100 communities in thirty-four states. EAS supports an additional 33 communities in Alaska. Because of increasing costs and the continuing financial turnaround in the aviation industry, particularly among commuter airlines, about 28 additional communities have been forced into the EAS program since the terrorist attacks in 2001.

In my State of New Mexico, five cities currently rely on EAS for their commercial air service. The communities are Clovis, Hobbs, Carlsbad, Alamogordo and my hometown of Silver City. In each case commercial service is provided to Albuquerque, the state's business center and largest city.

I believe this ill-conceived proposal requiring cities to pay to continue to have commercial air service could not come at a worse time for small communities already facing depressed economies and declining tax revenues.

As I understand it, the mandatory cost-sharing requirements in the FAA reauthorization bill could affect communities in as many as 22 states. Based on an analysis by my staff, the individual cities that could be affected are as follows:

Alabama—Muscle Shoals; Arizona—Prescott, Kingman; Arkansas—Hot Springs, Harrison, Jonesboro; Colorado—Pueblo; Georgia—Athens; Iowa—Fort Dodge, Burlington; Kansas—Salina; Kentucky—Owensboro; Maine—Augusta, Rockland; Michigan—Iron Mt.; Mississippi—Laurel; Missouri—Joplin, Ft. Leonard Wood; New Hampshire—Lebanon; New Mexico—Hobbs, Alamogordo, Clovis; New York—Watertown, Jamestown, Plattsburgh; Oklahoma—Ponca City, Enid; Pennsylvania—Johnstown, Oil City, Bradford, Altoona; South Dakota—Brookings, Watertown; Tennessee—Jackson; Texas—Victoria; Vermont—Rutland; Washington—Moses Lake

As I see it, the choice here is clear: If we do not preserve the Essential Air Service Program today, we could soon see the end of all commercial air service in rural areas. The EAS program provides vital resources that help link rural communities to the national and global aviation system. Our bill will preserve the essential air service program and help ensure that affordable,

reliable, and safe air service remains available in rural America. Congress is already on record opposing mandatory cost sharing. I hope all Senators will once again join us in opposing this attack on rural America.

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. 217

*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 "Essential Air Service Preservation Act of 2005".

#### SEC. 2. REPEAL OF EAS LOCAL PARTICIPATION PROGRAM.

(a) **IN GENERAL.**—Subchapter II of chapter 417 of title 49, United States Code, is amended by striking section 41747, and such title shall be applied as if such section 41747 had not been enacted.

(b) **CLERICAL AMENDMENT.**—The chapter analysis at the beginning of such chapter is amended by striking the item relating to section 41747.

By Mr. KOHL:

S. 218. A bill to amend the Food Security Act of 1985 to provide incentives to landowners to protect and improve streams and riparian habitat; to the Committee on Agriculture, Nutrition, and Forestry.

MR. KOHL. Mr. President, there are a number of different conservation programs aimed at farmers, with a variety of goals. While many of those programs improve water quality and stream health, none are primarily focused with improving fish habitat. The bill I am introducing today would focus USDA conservation dollars on restoring high quality fish habitat in streams around rural America.

While there are millions of miles of streams throughout the country, few of these streams are able to support the kind of first rate fisheries that they have in the past. Agriculture and industry have altered riverbeds over the years, slowing the movement of water for their own purposes. The EPA and the Fish and Wildlife Service have found that 81 percent of all stream fish habitats in the U.S. have been adversely affected by either pollution or other disturbances. In places where alterations in the river are no longer needed, they should be removed to restore the ecosystem for the native fish.

Clean, fresh, fast moving streams are a necessary requirement for some of our most popular game fish. Trout, one of our most valuable and sought-after game fish, need very specific conditions to thrive, and those conditions have been harder and harder to find. Currently roughly 2 percent of all freshwater fishes are either considered rare or at risk. Habitat loss is part of the problem with only 19 percent of streams and rivers in the lower 48 of high enough quality for wild or scenic status.

This bill, the Stream Habitat Improvement Program, is about more than just preserving an ecosystem or building wildlife populations, this is also about tourism and recreation. Fishing in this country is big business. In Wisconsin alone there are almost 950,000 anglers, and almost half a million more come from out of State to fish in Wisconsin. Together these anglers spend \$1 billion on fishing related expenses in our State. Nationwide recreational fishing is related to \$41 billion in economic activity. An industry with this much impact around the country deserves our consideration.

The bill introduced today would provide payments to farmers who engage in conservation projects that improve stream health. The bill is based on the Wildlife Habitat Improvement Program, but focused more closely on streams, creeks, and rivers. Farmers who participate in the program will make improvements on streams running through their property. Improvements could include repairing shoreline, removing barriers to fish passage, and planting trees to shade the water and strengthen stream banks. Farmers who are willing to make the efforts to improve spawning grounds and add cover for fish can do a lot to rehabilitate this resource.

Not every river and stream needs to be returned to its natural state, or be granted wild and scenic status. But this bill tries to take a small step toward repairing a resource for the future. Fishing, especially trout and fly fishing, are big business in this country, as well as important environmental indicators. Our efforts to further stream quality will have both economic benefits as well as natural ones, and those are the kind of efforts that everyone in Congress can get behind. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 218

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# **SECTION 1. STREAM HABITAT IMPROVEMENT PROGRAM.**

(a) IN GENERAL.—Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended by adding at the end the following:

## **“SEC. 1240Q. STREAM HABITAT IMPROVEMENT PROGRAM.**

“(a) IN GENERAL.—The Secretary, in consultation with the State technical committees established under section 1261, shall establish within the Natural Resources Conservation Service a program to be known as the stream habitat improvement program (referred to in this section as the ‘program’).

“(b) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—Under the program, the Secretary shall offer to enter into agreements under which the Secretary shall make cost-share payments to landowners to carry out on land owned by the landowners projects to—

“(A) protect streamside areas, including through the installation of riparian fencing and improved stream crossings;

“(B) repair in-stream habitat;

“(C) improve water flows and water quality, including through channel restoration;

“(D) initiate watershed management and planning in areas in which streams are in a degraded condition due to past agricultural or forestry practices; and

“(E) undertake other types of stream habitat improvement approved by the Secretary.

“(2) PRIORITY PROJECTS.—The Secretary shall give priority to any landowner applicant that carries out a project to—

“(A) remove a small dam or in-stream structure;

“(B) improve fish passage, including through culvert repair and maintenance;

“(C) protect streamside areas;

“(D) improve water flows, including through irrigation efficiency improvements; or

“(E) improve in-stream flow quality or timing or temperature regimes.

“(3) PRIORITY APPLICANTS.—To ensure that program projects address the causes of stream habitat degradation, the Secretary shall give priority to any landowner applicant that demonstrates that upland improvements associated with the stream habitat improvement (including erosion and nutrient management) have been, or will be, carried out.

“(c) COST-SHARE PAYMENTS.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Federal share of payments made under this section shall be equal to 80 percent of the total cost incurred by the landowner in carrying out a project described in subsection (b), as determined and approved by the Secretary.

“(2) NONPROFIT PARTNERSHIP.—The Secretary shall provide a higher Federal share of payments than the share provided under paragraph (1) to a landowner that carries out a project in partnership with a nonprofit organization.

“(3) PRIORITY PROJECTS.—The Secretary may provide a higher Federal share of payments than the share provided under paragraph (1) to a landowner that carries out a project described in subsection (b)(2).”.

(b) FUNDING AND TECHNICAL ASSISTANCE.—

(1) FUNDING.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by adding at the end the following:

“(8) The stream habitat improvement program under section 1240Q, using, to the maximum extent practicable, \$60,000,000 in each of fiscal years 2006 through 2008.”.

(2) TECHNICAL ASSISTANCE.—Section 1241(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3841(b)(1)) is amended by striking “paragraphs (1) through (7)” and inserting “paragraphs (1) through (8)”.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 219. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to protect the retirement security of American workers by ensuring that pension assets are adequately diversified and by providing workers with adequate access to, and information about, their pension plans, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today along with my colleague, Senator BAUCUS, the Ranking Member of the Finance Committee, to re-introduce the National Employee Savings and Trust Equity Guarantee Act—or the NESTEG bill as we call it in the Finance Committee. The NESTEG bill would reform our pension and retire-

ment savings laws in several important ways. For example, NESTEG would require companies to allow their employees to diversify out of company stock, a provision that the Committee adopted in response to the events at Enron which saw employees' retirement plans vanish almost overnight. The NESTEG bill also includes other important participant protections, including enhanced disclosure requirements, new rules governing so-called blackout periods, and faster vesting of employer contributions. In addition, NESTEG expands the portability of retirement plan assets so that workers can keep money saved for retirement, and simplifies pension laws and regulation. The NESTEG bill also responds to the uncertainty in the rules governing defined benefit pensions by permanently adopting the yield curve as a replacement for the 30-year Treasury rate.

Last year, the Finance Committee unanimously approved the NESTEG bill. This year, I am looking forward to seeing it signed into law. This bill first began in the wake of the outrageous events that went on in the wake of the collapse of Enron and corporate scandals at other companies. Over the past few years, the Finance Committee has worked diligently to enact reforms in a number of areas of the law to make sure that events like that don't happen again.

The important pension protections in the NESTEG bill are one remaining area for reform. The headlines have died down, but workers' pensions are still too vulnerable to company failures. Thus, a central piece of this bill would allow employees to diversify their retirement plans so that they are not overly concentrated in company stock. Diversification is one of the hallmark principles of sound investment strategy, and promoting diversification should be a hallmark of our pension laws.

But the NESTEG bill is not just a bill that responds to Enron-like situations. The NESTEG bill includes other important improvements to 401(k) and other defined contribution plans as well. The bill makes it easier for employees to transfer amounts from one plan to another, thereby making sure that plan assets remain saved for retirement. And the bill includes provisions designed to make it easier and more cost effective for small businesses to sponsor a retirement plan. Small businesses are vital to our economy, and we need to encourage a level playing field so that workers at small businesses throughout our country have the same access to retirement plans as workers at Fortune 500 companies.

The NESTEG bill also would remove a major source of uncertainty plaguing our pension system by enacting the yield curve as a permanent replacement to the 30-year Treasury rate for pension funding. Workers need reliable pension funding, and employers need a reliable basis on which to calculate pension payments. The NESTEG bill

also gives plan sponsors more flexibility to fund their plans well in good times, and restricts the ability of companies with severely underfunded plans to promise more benefits to work. The Administration has recently come forward with additional pension funding reform proposals, and I look forward to examining those reforms as the Finance Committee considers legislation in this area this year.

Retirement security is a topic that is going to get a great deal of attention this year. We know we need to increase long-term savings in America, and we know that there are ways that we can improve our private retirement system. The reforms in the NESTEG bill that I am introducing today with Senator BAUCUS represent an important step forward in improving Americans' retirement security. As we debate retirement security issues this year, I look forward to working with my colleagues to achieve the goal of ensuring that all Americans achieve a secure retirement.

Mr. BAUCUS. Mr. President, I am pleased to join my good friend Senator GRASSLEY, the Chairman of the Senate Finance Committee, in introducing the National Employee Savings and Trust Equity Guarantee Act.

Senator GRASSLEY and I have attempted put together a bipartisan bill to improve the security of the pension plans that cover America's workers. The Finance Committee approved similar legislation in the last Congress. Some of the provisions in this bill that provide participant protections were in a bill we introduced in the 107th Congress—a bill designed to help us avoid another Enron retirement plan debacle.

We all remember Enron. Thousands of workers lost their jobs. Because their 401(k) accounts were heavily invested in company stock, these workers lost most of their retirement savings as well. While the story of Enron's employees is no longer new, others companies unfortunately have risen up, or fallen down, to take Enron's place.

This country is in the middle of a discussion about retirement security. The administration is recommending that we introduce investment risk into the Social Security system—a system that is the sole source of retirement income for one-fifth of our senior citizens, and the primary source for almost two-thirds of seniors. Before we introduce risk into Social Security, the bedrock of our retirement system, we need to take a hard look at how we can reduce risk to participants in the private retirement system. That is what this bill is about.

Pension legislation is challenging. Companies offer plans voluntarily. If we value employer-sponsored retirement plans—and I do—we need to be careful not to make them so burdensome that companies will stop offering them. At the same time, workers have the right to basic protections to make sure that the money that they are counting on for retirement is really there when the time comes.

I believe that this bill strikes that balance. It phases out the ability companies have to keep workers locked into company stock in their retirement plans. But it does not limit those workers' ability to invest in that stock if they decide that doing so is best for them.

To help make that decision, we give workers tools to make good decisions, and really understand the consequences of their actions. We require the issuance of benefit statements so workers know how much their accounts are worth and how much company stock they already own. And we provide a safe harbor to make it easier for employers to make independent investment advice available if they want to.

The challenge inherent in legislating for a voluntary pension system is particularly sensitive when the subject is defined benefit plan funding. When we discuss and debate funding proposals, we need to consider the health of PBGC, the participants who are counting on defined benefit pensions and the employers who have been willing to promise these benefits.

The Pension Benefit Guaranty Corporation insures defined benefit plans covering forty-four million Americans. As recently as 2001, PBGC had a projected surplus. Now PBGC has a projected deficit of \$23 billion. And this deficit represents unfunded guaranteed benefits. Sadly, many participants were promised benefits in excess of those guaranteed by PBGC. These participants planned their retirement around a benefit promise, only to have the rug pulled out from under them. We must strengthen the funding of defined benefit pension plans so promises made can be kept. This bill takes some important steps toward this goal.

First, this bill provides a permanent replacement for the 30-year Treasury rate used to calculate minimum funding requirements for defined benefit plans. Congress passed a temporary substitute last year, but our temporary fix expires at the end of this year. This bill would extend the current corporate bond rate for an additional year, and then begin phasing in the yield curve—a set of rates that recognizes that you will get a different interest rate on a 5-year loan than on a 15-year loan.

This bill increases the deductible limit on company contributions to defined benefit pension plans. This is so critical. We must allow companies to contribute more in good times, to build a cushion for bad times.

Under this bill, plans of financially-distressed companies that are less than 50 percent funded would not be allowed to continue promising additional benefits until either the funding improves, or the company's financial footing is more solid. This is a tough provision. But we have to make sure that employees receive benefits that they have earned. We have to do our best to make companies pay for promises they have made. But when a company cannot pay

for more promises, we must be willing to step in and say "No more promises."

This bill has a number of other provisions that will make it easier for a worker to move retirement plans from employer to employer, or from an employer plan to an IRA. There are also provisions that make it easier to administer retirement programs.

I look forward to continuing to work with the Chairman of the Finance Committee, Senator GRASSLEY, to see the National Employee Savings and Trust Equity Guarantee Act through to enactment. I urge my colleagues to join us in working toward a more secure retirement for millions of Americans.

By Ms. STABENOW (for herself, Mr. KENNEDY, Mrs. BOXER, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. DAYTON, and Mr. CORZINE):

S. 222. A bill to amend title XVIII of the Social Security Act to stabilize the amount of the medicare part B premium; to the Committee on Finance.

Ms. STABENOW. Mr. President, today I am introducing the "Keep the Promise of Medicare Act" of 2005, and am pleased to be joined by my colleagues Senators KENNEDY, BOXER, LAUTENBERG, ROCKEFELLER, DAYTON, and CORZINE.

Our Medicare beneficiaries were greeted in the New Year by the largest premium increase in Medicare's history—17.5 percent. At the same time, the Social Security COLA increased by only 2.7 percent.

What are the implications of such a discrepancy? More than 2 million beneficiaries nationwide have lost their entire COLA to the Medicare premium increase, and almost 13 million seniors and disabled Americans will have over 50 percent of their COLA consumed by the Medicare premium increase.

This dramatic increase could have been avoided—CMS Administrator McClellan has acknowledged that provisions included in the 2003 Medicare law designed to privatize the program directly contributed to the premium increase.

Therefore, my legislation will limit, retroactively, the 2005 Part B premium increase to the same level as the Social Security COLA. The result will be nearly a \$10 monthly savings for our seniors—the Bush Administration has given seniors a monthly \$78.20 premium; under our legislation the premium would be \$68.40.

Older Americans have been struggling under the relentless increases in the cost of their health care and prescription drugs. Rather than alleviating the challenges they are facing, the 2005 premium increase has made their situation even direr.

Adjusting the current premium is a first step, and one we must take immediately. Additionally, we should use this year to revise an outdated law that has led to record increase in Medicare premiums in the last four years. The promise of Medicare must include

protection from dramatic increases in the Part B premium.

I urge my colleagues to join me on this important piece of legislation.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. KERRY, Mr. LEVIN, Mr. DAYTON, Mrs. MURRAY, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. DODD, Mr. LEAHY, Mr. ROCKEFELLER, and Mr. SARBANES):

S. 223. A bill to amend the Fair Labor Standards Act of 1938 to repeal any weakening of overtime protections and to avoid future loss of overtime protections due to inflation; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I am here to introduce legislation and to talk about an issue that my colleagues have heard me speak about on numerous occasions during the course of the past two years, frequently at some length. That issue is overtime pay for American workers.

It is a subject I feel deeply about. It has become very clear to me that Iowans feel very deeply about it, as well. Working families across the country feel deeply about it.

I know that is true because people approach me and tell me what overtime pay means to them and their families. I have become associated with this fight here in Congress over protecting overtime pay, so when people recognize me, they very often will approach me and tell me a little bit about themselves and why they support my efforts on this issue. Many of them even become emotional about it.

Why is that? Why do people feel so strongly? For some, it is a simple matter of fairness and valuing work. They believe that receiving time-and-a-half pay when they put in more than 40 hours of work in a week is fair because if they are going to give up their premium time—hours beyond a normal workweek—then their employer should provide them with premium pay. It is simple fairness. Of course, they might also rely on that premium pay as a substantial part of their income. That is a benefit of valuing work fairly. They make more money.

Most people making overtime pay are not extremely affluent, so they are probably spending a lot of that extra income, putting it right into the local economy. That is therefore a further benefit to the economy.

Other people, to tell the truth, would rather not work a lot of overtime hours. They believe a 40-hour workweek is a full workweek.

That is what the Fair Labor Standards Act, FLSA, did when we passed it in 1938. It established the principle of a 40-hour workweek in law by saying that employers need to pay extra when they work their employees longer than that. The time-and-a-half rule tends to discourage employers from requiring their employees to work longer than 40

hours, and many people value the law for that reason. They want to keep their premium time for themselves. They want to spend their premium time doing leisure activities or performing important family duties.

In 1938, our government decided that the 40-hour workweek was important to Americans. Look in any economic history book. It is treated as a fundamental and valuable principle in our economy. Overtime pay rewards work, and it reduces exploitation. It protects “premium time” for working men and women.

The 40-hour workweek says: Human beings are more than just the work they do. It says, the progress of technology can allow us to enjoy a good standard of living and quality of life without spending all of our hours toiling and laboring.

The 40-hour workweek also creates jobs. Requiring time-and-a-half pay for overtime work encourages employers to hire more workers, rather than requiring additional hours of work from existing employees. Franklin Roosevelt cited this as a rationale when he signed the FLSA into law.

In 1933, probably for all the reasons I have just mentioned, the United States Senate voted 53 to 30 to set a cap for hours in a workweek. The number of hours was 30. The Senate voted to cap the workweek in the United States at 30 hours. Those were extremely difficult times economically, but the Senate of 70 years ago nonetheless placed a greater value on quality time spent off the job than they did increasing productivity with longer workweeks.

The Bush rules are deeply flawed. They make millions of modest-income and moderate-income American workers vulnerable to losing their eligibility for overtime pay, broadening the categories of workers that are ineligible for overtime protections—often in response to specific requests from industries.

If overtime is free to the employer, it is going to be overused. A study done by the Center for Women and Work at Rutgers University showed that only 20 percent of the workers eligible for overtime work more than 40 hours a week, but 44 percent of workers who are exempt from overtime pay work overtime.

Several months ago, three former career DoL officials released a report after having done an in-depth review of these rule changes. Their analysis should be read by all to whom the issue of overtime is important.

These were not just any three former DoL officials. These were the top three people who administered these regulations over the course of the last two decades. They speak with enormous credibility on this issue.

These career employees have said that “in every instance where DoL has made substantive changes to the existing rules, it has weakened the criteria for overtime exemptions and thereby expanded the reach and scope of the ex-

emptions.” This comes from people who were elevated to their high positions within DoL during the Reagan administration. The fact that they say these new rules are bad for the American worker in all ways but one ought to tell us something.

All of my colleagues are well aware that I led fights on the Senate floor during the last Congress to block or repeal the Department of Labor’s FLSA overtime rule changes. Despite the fact that Congress voted 6 times during that period to protect workers’ overtime by blocking the new rules, the administration insisted on ignoring the will of Congress. The new rules went into effect on August 23 of last year.

The bill I am introducing today would simply allow any workers who were entitled to overtime before the new rules took effect last August to retain their overtime rights. It makes ineffective those portions of the new rules that allow employers to take overtime eligibility away from workers who were eligible before the new rules took effect.

Secondly, my bill would also increase the minimum salary threshold. The minimum salary threshold that helps define overtime eligibility had not been raised since 1975 before the Bush administration raised it to \$23,660. The administration did not raise it high enough, and millions of workers who should be covered are not covered due to this inadequacy. This bill will increase the number of workers covered by overtime protections by raising the minimum salary threshold to \$30,712—to correspond with the increase in workers’ wages since 1975. The bill also contains language that requires the salary threshold be adjusted annually to reflect and keep pace with increases in inflation.

American workers deserve an iron-clad guarantee that their overtime rights are safe. That is what the bipartisan bill I am introducing today accomplishes. It repeals any provisions of the new rules that took effect last August that weaken overtime protections, and it indexes the minimum salary threshold annually to avoid future loss of overtime protections due to inflation. I thank the 13 of my colleagues who have agreed to cosponsor this for their support, and I look forward to adding more.

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. 223

*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 “Overtime Rights Protection Act”.

#### SEC. 2. AMENDMENT TO THE FAIR LABOR STANDARDS ACT OF 1938.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

“(k)(1) Notwithstanding the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly referred to as the Administrative Procedures Act) or any other provision of law, any portion of the final rule promulgated on April 23, 2004, revising part 541 of title 29, Code of Federal Regulations, that exempts from the overtime pay provision of section 7 of this Act any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003 remained in effect, shall have no force or effect and that portion of such regulations (as in effect on March 31, 2003) that would prevent such employee from being exempt shall be reinstated.

“(2) The Secretary shall adjust the minimum salary level for exemption under section 13(a)(1) in the following manner:

“(A) Not later than 60 days after the date of enactment of this subsection, the Secretary shall increase the minimum salary level for exemption under subsection (a)(1) for executive, administrative, and managerial occupations from the level of \$155 per week in 1975 to \$591 per week (an amount equal to the increase in the Employment Cost Index (published by the Bureau of Labor Statistics) for executive, administrative, and managerial occupations between 1975 and 2005).

“(B) Not later than December 31 of the calendar year following the increase required in subparagraph (A), and each December 31 thereafter, the Secretary shall increase the minimum salary level for exemption under subsection (a)(1) by an amount equal to the increase in the Employment Cost Index for executive, administrative, and managerial occupations for the year involved.”.

Mr. KENNEDY. Mr. President, I commend Senator HARKIN for introducing the Overtime Rights Protection Act to restore overtime protections for the more than 6 million Americans denied overtime pay and denied the guarantee of a 40-hour work week by the Republican anti-overtime regulation adopted in 2004. The bill will also provide overtime protections for additional deserving workers.

In the last Congress, the Senate voted four times to block the Administration's overtime rule, and the House voted twice to block it. Yet, the Republican leadership refused to accept the will of Congress and the will of the American people. Instead, it blocked the enactment of this legislation and continued the unfair assault on America's workers and their right to overtime pay.

In today's economy, workers are concerned about losing their jobs, their pay, their health benefits, and their retirement benefits. Now more than six million employees also have to worry about losing higher pay they've always earned for working overtime.

These men and women are nurses. They are school teachers. They are long-term care workers. They are assistants in mental health facilities. They are countless men and women in many other fields.

Make no mistake—overtime cuts are pay cuts. When workers lose their overtime pay, they still work longer hours. But they get no extra pay for doing so, even though they've had the right to time-and-a-half pay for overtime work ever since the 1930's.

Clearly, we need a policy to create more jobs, not eliminate jobs. By taking away workers' right to overtime, the Administration's rule undermines job creation, since it allows businesses to require employees to work longer hours for no extra pay, rather than hire new workers to do the extra work.

Denying overtime pay is a thinly veiled scheme to reduce workers' pay and raise employers' profits. In this troubled economy, it makes no sense to ask any workers anywhere in America to give up their overtime pay.

Instead of making hard-working men and women work longer hours for less pay, businesses should create new jobs by hiring more employees to do the work.

We know that employees across America are already struggling hard to balance their family needs and their work responsibilities. Requiring them to work longer hours for less pay will impose an even greater burden in this daily struggle.

According to the Families and Work Institute, two of the most important things that children would most like to change about their parents are that they wish their parents were less stressed out by their work, and they wish they could spend more time with their parents.

The Government Accountability Office says that employees without overtime protection are twice as likely to work overtime as employees covered by the protection. In other words, businesses don't hesitate to demand longer hours, as long as they don't have to pay higher wages for the extra work.

Protecting the 40-hour work week is vital to protecting the work-family balance for millions of Americans in communities in all parts of the nation. The last thing Congress should be doing is to allow the new anti-overtime rule to make the balance worse for workers than it already is.

Under the overtime law, low-income workers are supposed to be automatically included. But today, millions who should be included are left out, since wages have increased, but the maximum earnings level for automatic coverage has remained the same for 30 years. The Bush Administration raised it to \$23,660 in their new rule, but this level is still too low. The Harkin bill will cover more workers by raising the threshold to \$30,712, and index it to keep pace with wage growth. This change will bring it to the level it would be if we'd made annual adjustments for wage inflation over the last 30 years.

Congress cannot look the other way while more and more Americans lose their jobs, their livelihoods, their homes, and their dignity. Denying overtime pay rubs salt in the wounds of this troubled economy. Enacting the Overtime Rights Protection Act will end this injustice, and I urge my colleagues to support it.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 22—AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERTS submitted the following resolution; from the Select Committee on Intelligence; which was referred to the Committee on Rules and Administration:

S. RES. 22

*Resolved*, That, in carrying out its powers, duties, and functions under S. Res. 400, agreed to May 19, 1976 (94th Cong.), as amended by S. Res. 445, agreed to October 9, 2004 (108th Cong.), in accordance with its jurisdiction under Section 3 and Section 17 of S. Res. 400, including holding hearings, reporting such hearings, and making investigations as authorized by Section 5 of S. Res. 400, the Select Committee on Intelligence is authorized from March 1, 2005, through September 30, 2005; October 1, 2005, through September 30, 2006; and October 1, 2006 through February 28, 2007 in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2005 through September 30, 2005 under this resolution shall not exceed \$3,050,594, of which amount (1) not to exceed \$32,083 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$5,834 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2005 through September 30, 2006, expenses of the committee under this resolution shall not exceed \$5,355,503, of which amount (1) not to exceed \$55,000 be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2006 through February 28, 2007 expenses of the committee under this resolution shall not exceed \$2,279,493, of which amount (1) not to exceed \$22,917 be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$4,166 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2007, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee,



except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee, from March 1, 2005 through September 30, 2005; October 1, 2005 through September 30, 2006; and October 1, 2006 through February 28, 2007, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

#### SENATE RESOLUTION 23—AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. SMITH submitted the following resolution; from the Special Committee on Aging; which was referred to the Committee on Rules and Administration:

##### S. RES. 23

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such Rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from March 1, 2005, through September 30, 2005; October 1, 2005, through September 30, 2006; and October 1, 2006, through February 28, 2007, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2005, through September 30, 2005, under this resolution shall not exceed \$1,445,446, of which amount (1) not to exceed \$117,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed \$5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2005, through September 30, 2006, expenses of the committee under this resolution shall not exceed \$2,537,525, of which amount (1) not to exceed \$200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed \$5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2006, through February 28, 2007, expenses of the committee under this resolution shall not exceed \$1,080,025, of which amount (1) not to exceed \$85,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed \$5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2006, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

#### SENATE RESOLUTION 24—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE BUDGET

Mr. GREGG submitted the following resolution; from the Committee on the Budget; which was referred to the Committee on Rules and Administration:

##### S. RES. 24

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such Rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 2005, through September 30, 2005; October 1, 2005, through September 30, 2006; and October 1, 2006, through February 28, 2007, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2005, through September 30, 2005, under this resolution shall not exceed \$3,367,870, of which amount (1) not to exceed \$35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed \$21,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2005, through September 30, 2006, expenses of the com-

mittee under this resolution shall not exceed \$5,915,179, of which amount (1) not to exceed \$60,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed \$36,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2006, through February 28, 2007, expenses of the committee under this resolution shall not exceed \$2,518,660, of which amount (1) not to exceed \$25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed \$15,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2006, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

#### SENATE RESOLUTION 25—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FINANCE

Mr. GRASSLEY submitted the following resolution; from the Committee on Finance; which was referred to the Committee on Rules and Administration:

##### S. RES. 25

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 2005, through September 30, 2005; October 1, 2005, through September 30, 2006; and October 1, 2006, through February 28, 2007, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2005, through September 30, 2005, under this resolution shall

not exceed \$4,081,365, of which amount (1) not to exceed \$17,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$5,833 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2005, through September 30, 2006, expenses of the committee under this resolution shall not exceed \$7,165,470, of which amount (1) not to exceed \$30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2006, through February 28, 2007, expenses of the committee under this resolution shall not exceed \$3,049,982, of which amount (1) not to exceed \$12,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$4,167 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2005, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2005, through September 30, 2005; October 1, 2005 through September 30, 2006; and October 1, 2006 through February 28, 2007, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

# SENATE RESOLUTION 26—COMMENDING THE PEOPLE OF IRAQ ON THE ELECTION HELD ON JANUARY 30, 2005, OF A 275-MEMBER TRANSITIONAL NATIONAL ASSEMBLY AND OF PROVINCIAL AND REGIONAL GOVERNMENTS AND ENCOURAGING FURTHER STEPS TOWARD ESTABLISHMENT OF A FREE, DEMOCRATIC, SECURE, AND PROSPEROUS IRAQ

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 26

Whereas on January 30, 2005, for the first time in over 50 years, the citizens of Iraq had the opportunity to vote in a free election, to choose their own leaders, and to begin the process of writing their own constitution;

Whereas the election in Iraq was held despite imperfect conditions, threats to voters, candidates, and election workers, and acts of violence by those seeking to prevent the voice of the majority of the people of Iraq from being heard;

Whereas an estimated 14,300,000 Iraqis were registered to vote at more than 5,000 polling stations across Iraq and in 14 other countries;

Whereas a majority of individuals who were eligible to vote participated in the election and the final results of the election will be certified on February 15, 2005;

Whereas, the newly elected 275-member Transitional National Assembly of Iraq will include at least 25 percent female representation, will serve as the national legislature of Iraq, and will name a Presidency Council consisting of a President and 2 Vice Presidents that will appoint a new Prime Minister of Iraq and approve the selection of cabinet ministers;

Whereas the Transitional National Assembly will draft a national constitution that will be presented to the people of Iraq for their approval in a national referendum to be held in October 2005 and that will lead to the election of a constitutional government in Iraq;

Whereas the election establishes a credible process for governing Iraq under a mandate from the majority of the people of Iraq and reflects the will of the people for a new Iraq in which all communities are represented and terrorism is eliminated;

Whereas the election was a historic step towards development of democracy for the people of Iraq and an inspiration to all those in the region who are striving to achieve democracy in their own countries;

Whereas the United States is committed to facilitating the development of a strong and proud Iraq that is built by the people of Iraq through their unified efforts and their commitment to protecting the territorial integrity and national unity of Iraq;

Whereas President George W. Bush stated after the election in Iraq that the "world is hearing the voice of freedom from the center of the Middle East"; and

Whereas the United States Government stands ready to work with the new Government of Iraq to build a free, democratic, secure, and prosperous Iraq: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes that, on January 30, 2005, the people of Iraq elected a 275-member Transitional National Assembly and leaders of provincial and regional governments in Iraq in an election that has been widely described as free and fair;

(2) recognizes this election is a milestone in the development of democracy in Iraq,

commends the people of Iraq on the election, and congratulates the new members of the Transitional National Assembly and the leaders of the provincial and regional governments;

(3) commends the Independent Electoral Commission of Iraq for its administration of the election and commends the United Nations Mission in Iraq for the provision of expert technical assistance and training to the Commission;

(4) expresses its respect for the freely expressed will of the people of Iraq, its admiration for their courage in the face of intimidation, threats, and acts of violence, and its intention to work with the new Government of Iraq to help the people of Iraq realize the opportunity for a more peaceful and prosperous future;

(5) urges the new leadership of Iraq to move forward with drafting the constitution, upholding the rule of law, and holding a referendum on the new constitution in October 2005;

(6) urges all members of the international community to help Iraq end the violent insurgency which is destabilizing the region and help Iraq build the necessary political, economic, and security infrastructure essential to establish a viable, democratic state and improve the lives of the people of Iraq; and

(7) reaffirms the commitment of the United States to help the people of Iraq succeed in building their own government and fulfilling the aspirations of the people of Iraq for a free, united, peaceful, and prosperous Iraq.

Mr. LUGAR. Mr. President, I submit today a resolution commending the Iraqi people for their participation in the election of January 30, 2005, of a 275-member Transitional National Assembly and provincial and regional governments; and encouraging further steps toward establishment of a free, democratic, secure and prosperous Iraq.

Despite the threats to voters, candidates and election workers, and the acts of violence by those seeking to prevent the voice of the majority from being heard, millions of Iraqis voted on Sunday.

For the first time in over 50 years, the Iraqi people have been given the opportunity to choose their leadership. Through this resolution, the Senate recognizes and commends this historic moment and the strides of the Iraqi people toward free and fair elections.

## NOTICES OF HEARING/MEETINGS

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following oversight hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday February 17, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to review the National Park Service's implementation of the Federal Lands Recreation Enhancement Act authorized in Public Law 108-447.

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, U.S. Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Brian Carlstrom at (202) 224-6293.

#### PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Ben Taylor of my staff be granted floor privileges for the duration of today's session.

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

#### APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-118, Section 4(a)(3) appoints the Senator from Alaska, Ms. MURKOWSKI, to the Japan-United States Friendship Commission.

The Chair, on behalf of the Republican Leader, pursuant to Public Law 100-696, announces the appointment of the Senator from Mississippi, Mr. COCHRAN, as a member of the United States Capitol Preservation Commission, vice the Senator from Colorado, Mr. Campbell.

#### PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 20, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 20) providing for a joint session of Congress to receive a message from the President.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 20) was agreed to.

#### ORDERS FOR TUESDAY, FEBRUARY 1, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on tomorrow,

Tuesday, February 1. I further ask 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, and that there then be a period for the transaction of morning business until 10:45 a.m., with the time equally divided, with the first half of the time under the control of the Democratic leader or his designee and the final half under the control of the majority leader or his designee; provided that following morning business, the Senate proceed to executive session to consider the nomination of Alberto Gonzales to be Attorney General.

I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

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

#### PROGRAM

Mr. MCCONNELL. Mr. President, tomorrow, following morning business, the Senate will begin consideration of the nomination of Alberto Gonzales to be Attorney General. There are a number of Senators who wish to speak on this nomination, but it is our hope that we can reach an agreement for a reasonable time for debate and a vote on the Gonzales nomination. We will continue working with our colleagues on the other side of the aisle to lock in a consent agreement on the nomination. I encourage all Members looking for floor time to contact either the chairman or the ranking member of the Judiciary Committee as soon as possible so that we can have orderly debate with respect to the nomination.

I also remind all of our colleagues that the President's State of the Union Address will be on Wednesday evening of this week. Senators are asked to be in the Senate Chamber by 8:30 p.m. on Wednesday in order to proceed as a body to the House Chamber at 8:45 p.m. for the 9 o'clock address.

#### ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:33 p.m., adjourned until Tuesday, February 1, 2005, at 9:45 a.m.

#### NOMINATIONS

Executive nominations received by the Senate January 31, 2005:

##### DEPARTMENT OF HOMELAND SECURITY

MICHAEL CHERTOFF, OF NEW JERSEY, TO BE SECRETARY OF HOMELAND SECURITY, VICE THOMAS J. RIDGE, RESIGNED.

##### IN THE COAST GUARD

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

##### To be lieutenant commander

ROBERT M. KEITH, 0000

##### To be lieutenant

DANIEL E. WARD, 0000

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be major general

BRIGADIER GENERAL MARK W. ANDERSON, 0000  
BRIGADIER GENERAL JOHN H. BORDELON, JR., 0000  
BRIGADIER GENERAL THOMAS L. CARTER, 0000  
BRIGADIER GENERAL THOMAS A. DYCHES, 0000  
BRIGADIER GENERAL MARTIN M. MAZICK, 0000  
BRIGADIER GENERAL HOWARD A. MCMAHAN, 0000  
BRIGADIER GENERAL JAMES M. SLUDER III, 0000

##### To be brigadier general

COLONEL ROGER A. BINDER, 0000  
COLONEL ROBERT L. CHU, 0000  
COLONEL DAVID L. COMMONS, 0000  
COLONEL THOMAS E. COONS, 0000  
COLONEL BRUCE E. DAVIS, 0000  
COLONEL MICHAEL C. DUDZIK, 0000  
COLONEL ELIZABETH A. GROTE, 0000  
COLONEL KEVIN F. HENABRAY, 0000  
COLONEL JAMES F. JACKSON, 0000  
COLONEL JAMES H. MCLENDON, 0000  
COLONEL BRIAN P. MEENAN, 0000  
COLONEL JAMES L. MELIN, 0000  
COLONEL MICHAEL B. NEWTON, 0000  
COLONEL CARL M. SKINNER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be brigadier general

COL. KATHLEEN D. CLOSE, 0000

##### IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be brigadier general

COL. STEVEN L. BELL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

MAJ. GEN. KARL W. EIKENBERRY, 0000

##### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be admiral

ADM. WILLIAM J. FALLON, 0000

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

##### To be colonel

JAMES D. SHAFFER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

THOMAS WILLIAM ACTON, 0000  
ALLAN RAY ALBERT, 0000  
MARVIN L. ALEXANDER, 0000  
ROBERT STEPHEN AMARAL, 0000  
DOLORES M. ANDERSON, 0000  
ALANE A. ANDREZZI, 0000  
TALENTINO G. ANGELOSANTE, 0000  
JEFFREY J. ANSTED, 0000  
WOLFGANG C. ASMUS, 0000  
VICTORIA JACQUELINE BABB, 0000  
KENNETH H. BACHELOR, 0000  
ELAINE K. BARRON, 0000  
RONALD KEITH BARTLEY, 0000  
GARY E. BEEBE, 0000  
JANICE A. BENHAM, 0000  
MARK C. BLALOCK, 0000  
ANTHONY BONANNO, 0000  
RICHARD A. BREITBEACH, 0000  
RANDAL L. BRIGHT, 0000  
MICHAEL J. BRILL, 0000  
DAVID ROBERT BROWN, 0000  
DOUGLAS A. BROWN, 0000  
DORIS A. BRUNER, 0000  
KENNEDY SHEFTON BRYAN, 0000  
RICHARD J. BURKE, 0000  
STEVEN DALE BURTON, 0000  
EDWARD JOSEPH CALLAGHAN, JR., 0000  
JAMES A. CANNON, 0000  
JOANNE FERMANIS CARLON, 0000  
ROBERT JACOB CARTER, JR., 0000  
GREGORY ALAN CATE, 0000

KENT LOWELL CHAPLIN, 0000  
 KYLE A. CHARLES, 0000  
 HARRY E. CHRISMAN III, 0000  
 JOHN HARDING CHRIST, 0000  
 GERALD STANLEY CLANCY, JR., 0000  
 BRETT J. CLARK, 0000  
 MARK L. CLEMONS, 0000  
 WESLEY EUGENE COCKMAN, 0000  
 CRAIG RANDELL COLGATE, 0000  
 JEAN L. COMBS, 0000  
 CHANA DANIELLE COOPER, 0000  
 ANN H. COTTONGIM, 0000  
 LARRY L. COX, 0000  
 LLOYD G. CRAIN, 0000  
 KIMBERLY A. CRIDER, 0000  
 RUTH A. CURTIS, 0000  
 THERON G. DAVIS, 0000  
 THOMAS A. DEALL, 0000  
 WILLIAM S. DENYER, 0000  
 KATHLEEN M. DENZER, 0000  
 CATHERINE E. DEVERA, 0000  
 GLENN A. DILDY, 0000  
 THOMAS D. DISILVERIO, 0000  
 DAVID R. DIVESTA, 0000  
 BRIAN E. DOMINGUEZ, 0000  
 STEVEN K. DOSS, 0000  
 JAMES R. DOWNEY, 0000  
 CLEOPATRA F. ENGELSAMRENY, 0000  
 LOYE M. ESCHENBURG, 0000  
 JOSEPH V. FAGAN, JR., 0000  
 PHILIP S. FALLIN, 0000  
 PAUL G. FILIOS, 0000  
 JOHN C. FLOURNOY, JR., 0000  
 WILLIAM J. FORSHEY, JR., 0000  
 MICHAEL E. FOSSUM, 0000  
 JAMES SHANNON FOWLER, 0000  
 FRANK C. FULLER, 0000  
 JUAN A. GAUD, 0000  
 JOHN GIRONDA III, 0000  
 SCOTT A. GOODFELLOW, 0000  
 FRANK R. GRUBENIER, 0000  
 RANDALL C. GUTHRIE, 0000  
 JEANNIE M. HADDAD, 0000  
 RICHARD S. HADDAD, 0000  
 GREG A. HALL, 0000  
 PAUL G. HAMMONDS, 0000  
 DARYL J. HARTMAN, 0000  
 THOMAS P. HARWOOD III, 0000  
 MARTIN E. HEIGH, 0000  
 ROJELIO HERRERA, JR., 0000  
 LAURA L. HICKMAN, 0000  
 BRENT E. HILL, 0000  
 MARY HIGLEY HITTMEIER, 0000  
 STEVEN H. HOCKING, 0000  
 THOMAS H. HUEG, 0000  
 JON S. HUGULEY, 0000  
 LEE E. HUTCHINSON, 0000  
 JAMES L. IKEN, 0000  
 MARK A. INSANI, 0000  
 ERIC V. JACOBSON, 0000  
 HENRY O. JOHNSON IV, 0000  
 DAWN TASLITT JONES, 0000  
 LOUIS J. KAELIN, 0000  
 TODD J. KEEGAN, 0000  
 MICHAEL F. KEENAN, 0000  
 SHAUN T. KELLEHER, 0000  
 MICHAEL A. KELLY, 0000  
 DRUSILLA KEY, 0000  
 THOMAS E. KIRKENDALL, 0000  
 JANE L. KITCHEN, 0000  
 KERRY L. KOHLER, 0000  
 ROBERT L. KVALWASSER, 0000  
 DAVID H. LAMP, 0000  
 KENNETH R. LAPIERRE, 0000  
 DONALD W. LARAWAY, JR., 0000  
 SUE E. LAUSHINE, 0000  
 KENNETH D. LEWIS, JR., 0000  
 BONNIE S. LIND, 0000  
 EMANUEL LINDO, 0000  
 TIMOTHY P. LOCKETT, 0000  
 BETTY C. LUTKE, 0000  
 JEFFREY W. MACDONALD, 0000  
 MARGARET L. MACMACKIN, 0000  
 ROBERT N. MADDOX, 0000  
 FORREST L. MARQUES, 0000  
 MICHAEL J. MARTEN, 0000  
 CHRISTOPHER E. MARTIN, 0000  
 DEAN F. MATCHECK, 0000  
 EUGENE R. MATERA, 0000  
 KENNETH A. MATTISON, 0000  
 PETER M. MCGAFFREY, 0000  
 MARK A. MCGINLEY, 0000  
 FRANK B. MCGOWAN, 0000  
 UDO K. MCGREGOR, 0000  
 DAVID W. MCGUIRE, 0000  
 DOUGLAS J. MCHUGH, 0000  
 WILLIAM CLAYTON I. MCKINLEY, 0000  
 AUBREY L. MCKINNEY, 0000  
 CHARLES A. MCNEIL, 0000  
 RALPH W. MENZEL, 0000  
 MARYANNE MILLER, 0000  
 ROBERT K. MILLMAN, JR., 0000  
 MARK J. MONTE, 0000  
 TIMOTHY C. MOORE, 0000  
 SHERMAN P. MORGAN, 0000  
 MICHAEL R. MOUNTS, 0000  
 MARK P. MURPHY, 0000  
 JEFFERY J. MURRAY, 0000  
 DAVID B. MUZZY, 0000  
 FRANKLIN L. MYERS, 0000  
 JAMES F. MYERS, 0000  
 DENNIS J. NEBERA, 0000  
 GARY EDWIN NELSON, 0000  
 BRYAN P. NEWMAN, 0000  
 DANIEL C. NUGTEREN, 0000  
 MICHELLE M. OBATA, 0000

WILLIAM C. O'DONNELL, 0000  
 PARRISH A. OLMSTEAD, 0000  
 ANDREW P. ONDREI, 0000  
 SANDRA S. OPEKA, 0000  
 REBECCA A. OROUKIN, 0000  
 ERIC S. OVERTURF, 0000  
 DOMINIC PALUMBO, 0000  
 GREGORY S. PAVLAKIS, 0000  
 STEVEN S. PAYNE, 0000  
 MICHAEL L. PHILLIPS, 0000  
 JERRY L. PIPPINS, JR., 0000  
 DAVID B. POSEY, 0000  
 JOHN J. PRIVETTE, 0000  
 GEORGE E. RAEDER, 0000  
 DAVID B. RAND, 0000  
 GREGORY S. RATTERREE, 0000  
 KENNETH E. RAY, 0000  
 DAWN M. RESLING, 0000  
 BRENDA S. REYNOLDS, 0000  
 GREGORY R. REYNOLDS, 0000  
 JOHN S. ROSENBAACH, 0000  
 TERRY J. ROSS, 0000  
 JEAN M. SCHAEFER, 0000  
 PETER SEFCIK, JR., 0000  
 HOWARD A. SEID, 0000  
 MICHAEL ALLEN SHEPHERD, 0000  
 FREDDIE J. SHERMAN, 0000  
 LINDSEY E. SHULL, 0000  
 JOHN C. SILVIA III, 0000  
 CHRISTOPHER C. SIMMONS, 0000  
 JULIO R. SOTOMAYOR, 0000  
 JOHN W. SPAHR, 0000  
 CHERYL SHAPIRO SPEER, 0000  
 CRAIG J. SPENCE, 0000  
 REGINALD C. STROUD, 0000  
 TIMOTHY G. SWINNEY, 0000  
 FRANK S. TAYLOR, 0000  
 WILLIAM B. TAYLOR, JR., 0000  
 DAVID E. THALHEIMER, 0000  
 DAVID B. THATCHER, 0000  
 JOSEPH J. THOMAS, 0000  
 JACKIE R. TUDER, 0000  
 BRUCE L. TURNER, 0000  
 JOHN D. TURNER, 0000  
 ORESTE VARELA, 0000  
 DAVID E. WALLIS, 0000  
 DONNA L. WARNER, 0000  
 PATRICIA M. WEBB, 0000  
 JON S. WENDELL, 0000  
 ALBERT H. WHITLEY, 0000  
 CHARLES M. WICKMAN, 0000  
 TIMOTHY J. WILLIAMS, 0000  
 TOMMY J. WILLIAMS, 0000  
 ROBERT D. WILLIAMSON, 0000  
 DEACON L. WINTERS, 0000  
 JUNE A. WISE, 0000  
 DAVID H. WUEST, 0000  
 JOHN M. ZBYSZINSKI, 0000  
 DEBRA S. ZELENAK, 0000

#### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
 TO THE GRADE INDICATED IN THE UNITED STATES MA-  
 RINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be major*

CARLTON W. ADAMS, 0000  
 THOMAS R. ADDISON, 0000  
 BRAD J. AIELLO, 0000  
 ANDREW P. ALBANO, 0000  
 RICHARD D. ALBER, 0000  
 AMY B. ALGER, 0000  
 DARREN M. ALVAREZ, 0000  
 DAVID E. ANDERSEN, 0000  
 BRIAN C. ANDERSON, 0000  
 RYAN L. ANDERSON, 0000  
 JAMES P. ANKNEY, 0000  
 JENNIFER A. ARCHBOLD, 0000  
 KELVIN M. ARTIS, 0000  
 IAN T. ARVIZO, 0000  
 JOSEPH J. ATHERALL, 0000  
 RICHARD M. ATKINSON, 0000  
 MIGUEL A. AYALA, 0000  
 JOHN C. BAILEY, 0000  
 MITCHELL S. BALL, 0000  
 ANTHONY J. BANGO, 0000  
 DAVID M. BANNING, 0000  
 STEVEN K. BARRIGER, 0000  
 SHAWN M. BASCO, 0000  
 JOHN M. BASEEL, 0000  
 CHARLES J. BASHAM, 0000  
 JAMES A. BATES, JR., 0000  
 CHRISTOPHER B. BATT, 0000  
 LONNIE R. BEBERNISS, 0000  
 RICHARD D. BELLISS, 0000  
 ANDREW J. BELOVARAC, 0000  
 SHAWN B. BELTRAN, 0000  
 JAMES P. BERTHAL, 0000  
 JOHN J. BERTAGNA, 0000  
 JOSEPH T. BERTAGNA, 0000  
 CEDRIC C. BEVIS, JR., 0000  
 TODD W. BIRNEY, 0000  
 HENRY L. BLACKSHEAR, JR., 0000  
 WILLIAM E. BLANCHARD, 0000  
 SPENCER S. BLODGETT, 0000  
 JOHN P. BOBO, 0000  
 JAMES A. BOERIGTER, 0000  
 DANIEL J. BOERSMA, 0000  
 JAMES Y. BOUNDS II, 0000  
 MICHAEL A. BOWERS, 0000  
 COLIN J. BRAINARD, 0000  
 BRADLEY S. BRENNAN, 0000  
 JAMES J. BROWN, 0000  
 JASON P. BROWN, 0000  
 MICHAEL D. BROGAN, 0000  
 MICHAEL R. BRUBAKER, 0000  
 VINCENT R. BRYAN, 0000  
 TOBY P. BUCHAN, 0000  
 JAMES E. BUCK, 0000  
 BART A. BUCKEL, 0000  
 PAUL R. BULLARD, 0000  
 BRIAN P. BURGESS, 0000  
 ROBERT B. BURGESS III, 0000  
 ANDREA S. BURNS, 0000  
 KYLE R. BURRESS, 0000  
 DANIEL P. BUTLER, 0000  
 MICHAEL J. BUTLER, 0000  
 ANDREW F. BYRD, 0000  
 MICHAEL K. CAGLE, 0000  
 BRIAN C. CALLAGY, 0000  
 RICHARD D. CALLAHAN, 0000  
 DARREN A. CANAVAN, 0000  
 RODERICK D. CAPILI, 0000  
 CHARLOTTE J. CARPENTER, 0000  
 SAMUEL H. CARRASCO, 0000  
 ANITA W. CARROLL, 0000  
 GEORGE T. CARROLL, 0000  
 ROMAN K. CASON, 0000  
 MICHAEL S. CASTELLANO, 0000  
 THOMAS H. CHALKLEY, 0000  
 BRYAN M. CHAMBERS, 0000  
 ANDREW G. CHAPMAN, 0000  
 MICHAEL J. CHARNEY, 0000  
 JAMES F. CHERRY, JR., 0000  
 VICTOR A. CHIN, 0000  
 LESLEY W. CHIU, 0000  
 STEVEN A. CHOJNACKI, 0000  
 MARK W. CHRISTENSON, 0000  
 RUTH E. CISNEROS, 0000  
 THEODORE A. CISOWSKI, 0000  
 THOMAS G. CITRANO, 0000  
 BRETT A. CLARK, 0000  
 THOMAS B. CLARKSON, 0000  
 CRAIG C. CLEMANS, 0000  
 DEVIN L. CLEPPER, 0000  
 ADRIAN K. CLEYMANS, 0000  
 SCOTT E. COBB, 0000  
 SCOTT J. COCKERHAM, 0000  
 BRIAN K. COCKRIEL, 0000  
 STEVEN M. COGAR, 0000  
 DANIEL H. COLEMAN, 0000  
 COREY M. COLLIER, 0000  
 TERENCE M. CONNELLY, 0000  
 SEAN P. CONNOLLY, 0000  
 DANIEL P. CONNOR, 0000  
 JAMES B. CONWAY, 0000  
 SCOTT M. CONWAY, 0000  
 DAVID E. COOPER, 0000  
 SUSANNA R. COOPER, 0000  
 LAURA L. CORPORON, 0000  
 MIMI COTTRELL, 0000  
 KYLE C. COUGHLIN, 0000  
 MARK D. COUSINS, 0000  
 KARL D. CRNKOVICH, 0000  
 ARTHUR A. CROWE III, 0000  
 AARON M. CUNNINGHAM, 0000  
 WALTER N. CURRIER, JR., 0000  
 CHRISTOPHER J. CURTIN, 0000  
 MICHAEL Q. CURTSINGER, 0000  
 PHILIP D. CUSHMAN, 0000  
 JON A. CUSTIS, 0000  
 ARNOLD E. DALE, 0000  
 ALISON L. DALY, 0000  
 CLAYTON A. DANFORD, 0000  
 EDWARD J. DANIELSON, 0000  
 JON W. DAVENPORT, 0000  
 BRADLEY T. DAVIN, 0000  
 JEREMY L. DAVIS, 0000  
 CHAD E. DEAN, 0000  
 JASON M. DECOTEAU, 0000  
 JOHN Y. DELATEUR, 0000  
 WILLIAM R. DELORENZO, 0000  
 ARMANDO R. DELSI, 0000  
 ERIC B. DENT, 0000  
 JOHN J. DEPINTO, JR., 0000  
 EDWARD J. DEVEAU, JR., 0000  
 WILBERT DICKENS, 0000  
 STEPHEN M. DICKERSON, 0000  
 SEAN C. DICKMAN, 0000  
 JAMES A. DISIMONE, 0000  
 JASON P. DOIRON, 0000  
 JOSEPH E. DONALD III, 0000  
 MARK T. DONAR, 0000  
 LEONARD V. DORRIAN, JR., 0000  
 DOUGLAS D. DOWNEY, 0000  
 ANDREW S. DREIER, 0000  
 KEVIN M. DUFFY, 0000  
 WILLIAM D. DUNCAN, 0000  
 THOMAS J. DUNN III, 0000  
 JAN R. DYAL, 0000  
 JUSTIN W. DYAL, 0000  
 ANDREW D. DYER, 0000  
 GREGORY C. EARNEST, 0000  
 AMY R. EBITZ, 0000  
 JASON M. EBY, 0000  
 MICHAEL J. EBY, 0000  
 ALEXANDER J. ECHEVERRIA, 0000  
 LARRY R. ECK, 0000  
 AARON D. ECKERBERG, 0000  
 CHAD W. EDWARDS, 0000  
 JUSTIN W. EGOSTAFF, 0000  
 GEORGES T. EGLI, 0000  
 MARK W. ELMERS, 0000  
 JAKE ELMAMUWALDI, 0000  
 ERIC L. EMERICH, 0000  
 ARMANDO ESPINOZA, 0000  
 JERRY J. ESTELL, JR., 0000  
 DAVID R. EVERLY, 0000  
 HOWARD C. EYTH III, 0000  
 JAMES P. FARRELLY, 0000  
 MARY H. FAST, 0000  
 JOHN D. FERGUSON, 0000  
 PAUL F. FILLMORE, 0000

ROBERT B FINNERAN, 0000  
 MICHAEL J FITZGERALD, 0000  
 CHRISTIAN R FITZPATRICK, 0000  
 JOHN D FLEMING, 0000  
 RONALD T FLORA, JR, 0000  
 JOHN P FLYNN, 0000  
 PETER T FORSYTHE, 0000  
 VICTOR A FRAUSTO, 0000  
 CESAR Y FREITAS, 0000  
 FRANK I FRITTMAN, 0000  
 TODD A FUJIMOTO, 0000  
 JEFFREY M GAGNON, 0000  
 RONALD E GAINES, 0000  
 TRAVIS T GAINES, 0000  
 JORGE L GALLEGOS, 0000  
 PATRICK C GALLOGLY, 0000  
 FRED C GALVIN, 0000  
 MATTHEW C GANLEY, 0000  
 GILBERT O GARCIA, 0000  
 HARRY L GARDNER, 0000  
 THOMAS H GARNETT IV, 0000  
 ROBERT J GEORGE, 0000  
 CHRISTOPHER E GEORGI, 0000  
 CHRISTOPHER T GIBSON, 0000  
 TRENT A GIBSON, 0000  
 CLIFFORD W GILMORE, 0000  
 JASON P GLOWACKI, 0000  
 ARMANDO GONZALEZ, 0000  
 MICHAEL D GONZALEZ, 0000  
 MATTHEW T GOOD, 0000  
 MICHAEL S GOODWIN, 0000  
 DAVID T GOTTLIEB, 0000  
 WILLIAM S GOURLEY, 0000  
 DANIEL GRANADO, 0000  
 KENNETH J GRANT, 0000  
 TRACY D GRAY, 0000  
 EDWARD C GREELEY, 0000  
 BRUCE V GREENE, 0000  
 JAMES C GREENLY, 0000  
 JOHN F GRIFFIN, 0000  
 DANIEL B GRIFITHS, 0000  
 TAYLOR L GRIMES, 0000  
 ERIC J GRIMM, 0000  
 JEFFREY D GROHARING, 0000  
 JOSEPH B GUIMOND, 0000  
 JAIME L GUTIERREZ, 0000  
 TREVOR HALL, 0000  
 DARREN M HAMILTON, 0000  
 JASON A HAMILTON, 0000  
 DAVID B HANEY, 0000  
 SHAWN D HANEY, 0000  
 SEAN M HANKARD, 0000  
 BRANDON L HANSEN, 0000  
 EDDY I HANSEN III, 0000  
 JEFFREY D HANSON, 0000  
 MICHAEL J HANSON, 0000  
 BRIAN J HARDY, 0000  
 BRADLEY J HARMS, 0000  
 ALLEN A HARPER, 0000  
 BRENDON Q HARPER, 0000  
 RICHARD J HARRINGTON, 0000  
 JOHN E HARRIS, 0000  
 TIFFANY N HARRIS, 0000  
 DANIEL P HARVEY, 0000  
 BRIAN K HARWELL, 0000  
 KELLY K HASTINGS, 0000  
 AARON J HAUG, 0000  
 RICHARD HAWKINS, 0000  
 CHRISTOPHER C HAY, 0000  
 BRIAN G HEATHERMAN, 0000  
 BRUCE M HEMPHILL, 0000  
 WILLIAM T HENNESSY, 0000  
 CHRISTIAN HERNANDEZ, 0000  
 JAMES A HERR, 0000  
 JOSEPH D HICKS, 0000  
 BRYAN E HILL, 0000  
 KISHA M HILL, 0000  
 WILLIAM D HILL, 0000  
 GLEN R HINES, JR, 0000  
 JOHN D HIOTT, 0000  
 TIMOTHY A HITZELBERGER, 0000  
 JOEL M HOFFMAN, 0000  
 CHRISTOPHER L HOLLOWAY, 0000  
 BRADLEY W HORTON, 0000  
 STANLEY M HORTON, 0000  
 ROBERT A HUBBARD, 0000  
 DAVID T HUDAK, 0000  
 JOSEPH R HUTCHESON, 0000  
 ROBERT M HUTTO, 0000  
 THOMAS F JASPER, JR, 0000  
 SCOT C JAWORSKI, 0000  
 BRIAN L JENKINS, 0000  
 TIMOTHY J JENT, 0000  
 ERIK W JILSON, 0000  
 MICHAEL T JOHANNES, 0000  
 CHRISTIAN F JOHNSON, 0000  
 GEORGE W JOHNSON, 0000  
 JENNIFER L JOHNSON, 0000  
 JIMMIE JOHNSON, 0000  
 MICHAEL S JOHNSON, 0000  
 JAMES B JONES, 0000  
 CHERISH M JOOSTBERNS, 0000  
 RICHARD D JOYCE, 0000  
 STEPHEN P KAHN, 0000  
 DANIEL B KALSON, 0000  
 MICHELE I KANE, 0000  
 BRIAN E KASPRZYK, 0000  
 KEVIN J KEATING, 0000  
 JOHN K KELLEY, 0000  
 TRAVIS S KELLEY, 0000  
 ERIC W KELLY, 0000  
 NICOLE A KELSEY, 0000  
 JESSE A KEMP, 0000  
 PHILIP B KENDRO, 0000  
 JEFFREY R KENNEY, 0000  
 MARK D KERBER, 0000  
 MICHAEL G KERKHOVE, 0000

MATTHEW D KERLIN, 0000  
 JOHN C KETCHERSIDE, 0000  
 JASON D KINDRED, 0000  
 CHESTER J KING, 0000  
 STEPHEN N KLOTH, JR, 0000  
 JUSTIN W KNOX, 0000  
 JANA S KOFMAN, 0000  
 NICHOLAS E KONICKI, 0000  
 EDWARD C KOOKEN, 0000  
 CHRISTOPHER A KRAJACICH, 0000  
 SAMUEL LABOY, 0000  
 CHRISTOPHER L LAJEUNESSE, 0000  
 DAVID L LANE, 0000  
 LUIS F LARA, 0000  
 KRISTEN A LASICA, 0000  
 DAVID A LAW, 0000  
 JOSEPH J LEBRYK, 0000  
 ALAN J LECOMPTE, JR, 0000  
 DANNY R LEDFORD, 0000  
 KENNETH A LEE, 0000  
 VELVETH S LEE, 0000  
 WILBUR LEE, 0000  
 DANIEL J LEVASSEUR, 0000  
 JASON A LEVY, 0000  
 DEVIN O LICKLIDER, 0000  
 MICHAEL E LINDBLUM, 0000  
 CURTIS A LINEWEAVER, 0000  
 AARON C LOCHER, 0000  
 JONATHAN P LONEY, 0000  
 JOHN P LONGSHORE, 0000  
 JOSE M LOPEZ II, 0000  
 NARCISO LOPEZ III, 0000  
 GREGORY B LOVETT, 0000  
 JASON A LOWER, 0000  
 HENRY K LYLES, 0000  
 JAIME MACIAS, 0000  
 PAUL D MACKENZIE, 0000  
 BRADLEY M MAGRATH, 0000  
 PETER J MAHONEY, 0000  
 ERIC C MALINOWSKI, 0000  
 SCOTT D MANNING, 0000  
 DONALD G MARASKA, 0000  
 AIMEE G MARES, 0000  
 GABRIELLE MARGULASCHAPIN, 0000  
 RICHARD E MARIGLIANO, 0000  
 FRANK Q MARILAO, 0000  
 CHRISTOPHER M MARISE, 0000  
 MICHAEL A MARMON, 0000  
 NEVIN M MARR, 0000  
 ANDREW V MARTINEZ, 0000  
 ROBERTO J MARTINEZ, 0000  
 JACOB M MATT, 0000  
 MATTHEW M MAZ, 0000  
 JOHN J MAZZARELLA, 0000  
 KRISTIN L MCCANN, 0000  
 FRANK L MCCLINTICK, 0000  
 ROBERT W MCCracken IV, 0000  
 LYLE L MCDANIEL, JR, 0000  
 ERIK P MCDOWELL, 0000  
 DOUGLAS S MCLEAN, 0000  
 ANDREW J MCNUITY, 0000  
 ANDREW B MCVICKER, 0000  
 ROBERT T MEADE, 0000  
 PAUL F MEAGHER, 0000  
 JOHN L MEDEIROS, JR, 0000  
 JOSE R MEDINA, 0000  
 DOWAL E MEGGS, JR, 0000  
 RAMON J MENDOZA, JR, 0000  
 TODD A MENKE, 0000  
 SCOTT O MEREDITH, 0000  
 PAUL C MERIDA, 0000  
 MANUEL A MERINO, 0000  
 ALAN M MERRELL, 0000  
 MARK W MICKLE, 0000  
 ALFRED L MILLER, 0000  
 ODELL MILLER III, 0000  
 PAUL B MILNE, 0000  
 CHARLES A MIRACLE, 0000  
 MARTA J MOELLENDICK, 0000  
 MICHAEL J MONROE, 0000  
 DONALD B MOOR, 0000  
 THOMAS L MOORE II, 0000  
 TOBY F MOORE, 0000  
 JONATHAN C MOREL, 0000  
 DAVID C MORZENTI, 0000  
 CASON A MOSS, 0000  
 MICHAEL M MOTLEY, 0000  
 ANTHONY J MURALT, 0000  
 MARK J MURATORE, 0000  
 STEVEN B MURPHY, 0000  
 KYLE D MURRAY, 0000  
 LISA B MUSCARI, 0000  
 KENNETH C MUSIAL, 0000  
 BARTON K NAGLE, 0000  
 MATTHEW R NATION, 0000  
 DAVID R NETTLES, 0000  
 BRIAN J NEWBOLD, 0000  
 LUCAS J NICHOLS, 0000  
 JASON L NICKERL, 0000  
 JOHN C NORTON, JR, 0000  
 GEORGE NUNEZ, 0000  
 THOMAS F OATES, 0000  
 BRENDAN G O'CONNELL, 0000  
 CHRISTOPHER P O'CONNOR, 0000  
 MICHAEL F OLNESS, 0000  
 ROBERT B ORR, 0000  
 JOHN M ORSMOND, 0000  
 JESSE E ORTEGA, 0000  
 MATTHEW W OSBORNE, 0000  
 KENNETH G OWENS, 0000  
 NEIL J OWENS, 0000  
 STEVEN J PACHECO, 0000  
 FELLIPE PAEZ, 0000  
 JAMES H PALMER, 0000  
 RICHARD A PARADISE, 0000  
 BREVEN C PARSONS, 0000  
 LANCE G PATRICK, 0000

TOBY D PATTERSON, 0000  
 TERRY M PAUSTENBAUGH, 0000  
 CORNELL A PAYNE, 0000  
 JABARI A PAYNE, 0000  
 JASON L PAYNE, 0000  
 STEVEN J PAYNE, 0000  
 MICHAELA C PEARSON, 0000  
 NORA E PENCOLA, 0000  
 TIMOTHY W PERRY II, 0000  
 DAVID J PERSONS, JR, 0000  
 CRAIG O PETERSEN, 0000  
 MARK A PICKETT, 0000  
 JOHN M PICUDELLA, 0000  
 JOSEPH M PLENZLER, 0000  
 JAMES S PLUTA, 0000  
 RUSSELL M POOL, 0000  
 ALLEN W PORTER, 0000  
 MICHAEL D PORTER, 0000  
 TIMOTHY R POWLEDGE, 0000  
 THOMAS R PRZYBELSKI, 0000  
 STEVEN D PUCKETT, 0000  
 EUGENE R PURSEL, 0000  
 HAROLD W QUALKINBUSH, 0000  
 EDWARD L QUINN, JR, 0000  
 RORY B QUINN, 0000  
 JOHN D QUINTANA, 0000  
 MICHAEL P QUINTO, 0000  
 MARK A RAFFETTO, 0000  
 JEFFREY R RAITHEL, 0000  
 EDWARD J RAPISARDA, 0000  
 HUGH J REDMAN, 0000  
 JORDAN D REECE, 0000  
 KEVIN G REECE, 0000  
 HEATH M REED, 0000  
 CHESTER T REESE, 0000  
 ARTHUR J REGO, 0000  
 JAMES J REISS III, 0000  
 ROBERT F REVOIR, 0000  
 JERSEY Y REYES, 0000  
 ROBERT B RICHARDSON, 0000  
 BRIAN T RICHDRUT, 0000  
 STEPHEN C RIFFER, 0000  
 JOSHUA A RIGGS, 0000  
 WILFRED RIVERA, 0000  
 ANTHONY J ROBINSON, 0000  
 CHRISTOPHER A ROBINSON, 0000  
 MARK C ROBINSON, 0000  
 MATTHEW G ROBINSON, 0000  
 PATRICK R ROBINSON, 0000  
 BRENDAN M RODDEN, 0000  
 ANDREW L RODGER, 0000  
 CESAR RODRIGUEZ, 0000  
 ADRIAN B ROMERO, 0000  
 KELLY D ROYCE, 0000  
 RICHARD A ROYSE, 0000  
 JOHN P RUFFINI, 0000  
 LEE M RUSH, 0000  
 BRIAN E RUSSELL, 0000  
 DAVID F SADLIER, 0000  
 NORMA SALAS, 0000  
 RAUL L SALCIDO, 0000  
 JEFFREY K SAMMONS, 0000  
 MATTHEW D SAMS, 0000  
 ALFRED M SANCHEZ, 0000  
 DENNIS A SANCHEZ, 0000  
 DONALD R SANDERS, 0000  
 TODD B SANDERS, 0000  
 MARK K SAUER, 0000  
 BRIAN S SCHENK, 0000  
 KURT J SCHILLER, 0000  
 STEVEN R SCHNUR, 0000  
 WILLIAM F SCHOEN, JR, 0000  
 SAMUEL C SCHOOLFIELD, 0000  
 LOUIS M SCHOTEMEYER, 0000  
 WILLIAM J SCHOUVILLER, 0000  
 DEAN A SCHULZ, 0000  
 JAMES T SCOTT, 0000  
 GREGORY G SEAMAN, 0000  
 SCOTT D SEEDER, 0000  
 ANDROY D SENEGAR, 0000  
 ERIC S SEUBRING, 0000  
 BRIAN P SHARP, 0000  
 MICHAEL A SHAYNE, 0000  
 EDWARD J SHEA, 0000  
 JAMES L SHELTON, JR, 0000  
 LADD W SHEPARD, 0000  
 BRAD J SHERMAN, 0000  
 ROBERT W SHERWOOD, 0000  
 FRANK R SHONE, JR, 0000  
 MATTHEW R SIMMONS, 0000  
 JONATHAN H SKIPPER, 0000  
 MATTHEW M SKIRMONT, 0000  
 BRIAN A SKOUSE, 0000  
 BRIAN L SMITH, 0000  
 PHILIP B SMITH, 0000  
 REGINALD J SMITH, 0000  
 TRES C SMITH, 0000  
 PETER R SOLANO, 0000  
 ROBERT B SOTIRE II, 0000  
 JOHN M SOUTH, 0000  
 DAMIAN L SPOONER, 0000  
 MARTIN V STARTA, 0000  
 ERICH I STEFANYSHYN, 0000  
 GARRY T STEFFEN, 0000  
 JEFFREY R STEVENSON, 0000  
 JERRY A STEVENSON II, 0000  
 JEFFREY D STONE, 0000  
 WILLIAM C STOPPEL, 0000  
 PAUL K STOUT, 0000  
 JARRON W STOUTENBOROUGH, 0000  
 TERRI M SUMNER, 0000  
 JAMES G SWEENEY, 0000  
 MICHAEL S SWINGLER, 0000  
 DANIEL E TARBUTTON, 0000  
 COLON TAYLOR III, 0000  
 CHRISTOPHER J TEAGUE, 0000  
 GARY W THOMASON, 0000

KELSEY R THOMPSON, 0000  
BRADFORD W TIPPETT, 0000  
KEITH H TOPEL, 0000  
JAVIER A TORRES, 0000  
JAMES J TOTH, 0000  
STEVEN R TURNER, 0000  
MARK L UNGER, 0000  
CHRISTOPHER J USREY, 0000  
GREGORY S VALLHONRAT, 0000  
RICHARD W VARACALLE, 0000  
JAY D VAUGHN, 0000  
JOSE A VERDUZCO, JR, 0000  
SCOTT A VOIGTS, 0000  
WOLFGANG W VONASPE, 0000  
BRIAN J VONHERBULIS, 0000  
JASON C VOSE, 0000  
DANIEL C WAGNER, 0000  
MICHAEL L WAGNER, 0000  
WILLIAM F WAHLE, 0000  
KIPP A WAHLGREN, 0000  
DAVID T WALLACE, 0000  
ERIC G WALTERS, 0000  
LAWRENCE M WALZER, 0000  
JEFFREY P WARBIANY, 0000  
TERRANCE D WARDINSKY, JR, 0000  
ANDREW B WARREN, 0000  
JOHN I WASCHER, 0000  
ROBERT S WASHINGTON, 0000  
BRENDA L WASSER, 0000  
TIMOTHY B WATERBURY, 0000  
ROBERT S WEILER, 0000  
ANDREW J WEIS, 0000  
JAMES M WEIS, 0000  
SIDNEY R WELCH, 0000  
SCOTT A WESTERFIELD, 0000  
BRADLEY C WESTON, 0000  
DON M WHITE, 0000  
JAMES A WHITLEY, 0000  
WILLIAM T WILBURN, JR, 0000  
JUSTIN P WILHELMSEN, 0000  
DAVID E WILKERSON, 0000  
JOHN D WILKERSON, 0000  
PHILIP A WILLIAMS, 0000  
CHARLES P WINCHESTER, 0000  
ESTHER F WINGARD, 0000  
BRIAN D WIRTZ, 0000  
ERIC S WOLF, 0000  
MATTHEW A WOODHEAD, 0000  
MATTHEW J WORSHAM, 0000  
ELLYN M WYNNE, 0000  
WALTER YATES, JR, 0000  
JUDY J YODER, 0000  
ERIC W YOUNG, 0000  
GERALD K YOUNG, 0000  
JOSHUA S ZAGER, 0000  
LUIS R ZAMARRIPA, 0000  
DOUGLAS A ZEMBIEC, 0000  
CHARLES T ZINNA, 0000  
WAYNE R ZUBER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES MA-  
RINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION  
12203:

*To be colonel*

KEITH R ANDERSON, 0000  
KURK P ANDERSON, 0000  
RUSSELL L ANDERSON, 0000

LOUIS B AVILA, 0000  
TIMOTHY J BAILEY, 0000  
BROOKS S BAKER, 0000  
ANDREW K BALDING, 0000  
PETER J BARNETT, 0000  
RONALD E BARTO, 0000  
RICHARD D BELL, JR, 0000  
JOHN S BOBROWIECKI, JR, 0000  
MARK R BOUNDY, 0000  
JOSEPH BRYANT, 0000  
MICHAEL W CALLAGHAN, 0000  
JOHN D CARNIVAL, 0000  
MICHAEL P CHENE, 0000  
ARTHUR L CLARK, 0000  
JOHN L CLONINGER, JR, 0000  
RICHARD A CONNELL, 0000  
DAVID W COUVILLON, 0000  
THOMAS D CRAWFORD, 0000  
FRANCIS X DELUCA, 0000  
RICHARD E EDGINGTON, 0000  
GLENN K EDISEN, 0000  
KENNETH A EVERILL, 0000  
JOHN P FAIRGRIEVE, 0000  
HARRY A FRANK, 0000  
JOHN F GARRELT'S, 0000  
TIMOTHY A GREEN, 0000  
DONALD A GROVES, 0000  
WAYNE J HALLEM, 0000  
ROY D HARLAN, 0000  
JIMMIE P HARMON, 0000  
ANTHONY Q HATTEY, 0000  
JOHN W HAVERTY, 0000  
WESLEY C HERBOL, 0000  
RICHARD M HIRSCH, JR, 0000  
ERIC HODGSON, 0000  
MICHAEL J HOLLIS, 0000  
JOHN J HOUTCHENS, JR, 0000  
MICHAEL J HUSSEY, 0000  
JOSEPH A IRRERA, 0000  
GREGORY A JACKSON, 0000  
MITCHEL S JACKSON, 0000  
FRED D JAMESON, 0000  
JOHN S JULIAN, 0000  
PHILIP E KARLE, 0000  
THOMAS M KEARNEY, 0000  
DANIEL P KELLY, 0000  
ROBERT J KILMARTIN, 0000  
TONY L LAND, 0000  
DAVID W LITAKER, 0000  
GARY R LOPEZ, 0000  
JOHN LOWRY III, 0000  
BRADLEY J MACPHERSON, 0000  
DOUGLAS M MAGOFFIN, 0000  
ALAN F MANGAN, 0000  
JAMES J MAXWELL, 0000  
SHERYL S MCCONNELL, 0000  
JOHN F MCELROY, 0000  
MARCELA J MONAHAN, 0000  
RICHARD D MULLEN, 0000  
GERALD F NALEPA, 0000  
GRANT F NEWSHAM, 0000  
PATRICK J OCONNOR, 0000  
WILLARD T PARKER, JR, 0000  
STEVEN L PARRISH, 0000  
BARRY D PEARSON, 0000  
SARA PHOENIX, 0000  
VINCENT E PLAIR, 0000  
EUGENE K POLK, 0000

CARL F PROSACK, 0000  
THOMAS J QUIGLEY, 0000  
STEVE RALPH, 0000  
MICHAEL E REHEUSER, 0000  
FRANK P RICAPITO, 0000  
PATRICK B ROBERTS, 0000  
JAMES D ROGERS, 0000  
KEITH A ROSDAHL, 0000  
PETER J RUSSETT, 0000  
JEFFREY A SCHAF, 0000  
DUANE T SILVESTRI, 0000  
ROBERT W SPRAGUE, JR, 0000  
GARY W STOREY, 0000  
DWIGHT H SULLIVAN, 0000  
MARK A SULLIVAN, 0000  
JOHN M SUTHERLAND, 0000  
TIMOTHY J THORSEN, 0000  
LIONEL B URQUHART, 0000  
ORLANDO M VALORE, JR, 0000  
ANDREW P VEITH, 0000  
MAARTEN VERMAAT, 0000  
JAMES P WADE, 0000  
JAMES C WHARTON III, 0000  
KEVIN B WILLIAMS, 0000  
HARVEY J WILLOUGHBY, 0000  
CRAIG G WOLFGRAM, 0000  
GREGORY M WOODWARD, 0000  
GARY K WORTHAM, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY  
APPOINTMENT TO THE GRADE INDICATED IN THE  
UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION  
5721:

*To be lieutenant commander*

JASON K BRANDT, 0000  
THOMAS A BUECKER, 0000  
GARY L CAVE, 0000  
YONG K CHA, 0000  
ANTHONY S DUTTERA, 0000  
JEFFREY J FLOGEL, 0000  
WILLIAM P HARRAH, 0000  
JAMES B HICKS, 0000  
KREG L KELLY, 0000  
TIMOTHY A PELNARSCH, 0000  
CHRISTOPHER A ROBERTO, 0000  
PAGE E SMALL, 0000  
CRAIG T THAYER, 0000  
RONALD L WITHROW, 0000

CONFIRMATION

Executive nomination confirmed by  
the Senate Monday, January 31, 2005:

DEPARTMENT OF ENERGY

SAMUEL W. BODMAN, OF MASSACHUSETTS, TO BE SEC-  
RETARY OF ENERGY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO  
THE NOMINEE'S COMMITMENT TO RESPOND TO RE-  
QUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY  
CONSTITUTED COMMITTEE OF THE SENATE.