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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN CORNYN, a Senator from the State of Texas.

PRAYER

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

Let us pray.

Almighty God, the refuge of all that are distressed, how appropriate for us to lift our hearts to You in the morning. You are our shield and the one who lifts our heads. You sit in the heavens and oversee the plans and activities of humanity. Lord, You are sovereign. The hearts of kings, queens, and presidents are in Your hands.

Help us to not be afraid of the challenges that confront this Nation or fear the forces that seem arrayed against us.

Arise, O God, and bless us with Your favor. Set us apart in Your joy. Teach us to put our trust in You that we may eat the bread of gladness. Lead our Senators today in the right paths. May they strive not for success but for faithfulness. Whatever this life may bring, keep their faith robust. Give us Your light, that we may have life.

We pray this in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN CORNYN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 14, 2003.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN CORNYN, a Senator from the State of Texas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. JOHN CORNYN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in a period of morning business for 1 hour. The first 30 minutes of that time will be under the control of Senator HUTCHISON, with the remaining 30 minutes under the control of the Democratic leader or his designee. Following the morning business period, the Senate will resume consideration of the Iraq and Afghanistan supplemental request. Also today, the Senate will recess from 12:30 to 2:15 for the Democratic Party luncheon. The Republican policy meeting will occur tomorrow. Accordingly, we will recess to accommodate that luncheon as well.

When the Senate reconvenes at 2:15 today, there will be 15 minutes of debate for closing remarks with respect to S. 1053, the genetic information nondiscrimination bill. The vote on passage of S. 1053 will occur at 2:30. That will be the first vote of today's session.

Following that vote, the Senate will resume consideration of the supplemental request for Iraq and Afghanistan. Additional rollcall votes can be expected.

I remind everyone that prior to the recess, the Democratic leader and I indicated the Senate will finish this bill by the close of business this week. Having said that, I believe Members have had adequate time to study the bill and draft amendments they believe may be necessary. If Senators desire to offer amendments, they should contact the bill managers and not delay until later in the week.

There are a number of important issues the Senate will address before completing our work in the coming weeks. I will have more to say about the schedule for these final weeks as we go forward. At this time, I expect the Senate should remain focused and complete action on the urgent and vital appropriations bill before the Senate.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic whip is recognized.

Mr. REID. If I could direct a question to the majority leader, it is my understanding we will have a break not only today, as has already been announced by the majority leader, but you are having your weekly caucus tomorrow, so tomorrow Members should be advised that from 12:30 to 2:30 the Republicans will be involved in their weekly party conferences; is that right?

Mr. FRIST. Through the Chair, that is correct. We will have recess during tomorrow's lunch as well as today.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of

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

morning business for up to 60 minutes, with the first 30 minutes of the time under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee, and the second 30 minutes of the time under the control of the Democratic leader or his designee.

The Senator from Utah.

Mr. BENNETT. On behalf of the Senator from Texas, Mrs. HUTCHISON, I yield myself the first 30 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IRAQ AND THE DEFICIT

Mr. BENNETT. Mr. President, we have come back from the break. Most Members, I imagine, have had the same kind of experience I have had in meeting with my constituents. We have discovered the question of what we should be doing in Iraq is foremost on our constituents' minds. Second, we have discovered—at least I have—that there is great concern about the size of the deficit. Those two issues were joined in debate in the Senate before we left for the break. I think it appropriate we talk about them together now that the break is over.

Let me first turn to the question of the deficit and the debate that took place in this Chamber with respect to the $87 billion that has been requested by the President to pay for the war activities and the reconstruction of Iraq. We were told in this Chamber we had to raise taxes by $87 billion to pay for this, and that if we did not, we would see the deficit go up by $87 billion. We defeated that amendment, but there were those with whom I met during the break who still had that view.

The interesting thing we discovered during the break was that the projections for the size of the deficit changed. This is no surprise to anyone who has spent time paying attention to the deficit. As I have said in this Chamber over and over and as I will repeat over and over, the one thing I know with respect to the deficit projections, or surplus projections when those were the order of the day, is that they are wrong. I do not know if they are wrong on the high side or wrong on the low side but I do know they are wrong.

The other thing I know is that the further out they go, the more likely they are to be wrong. That is, a 10-year projection is absolutely certain to be wrong; a 5-year projection has a 99.94 percent chance of being wrong; a 3-year projection might be a little bit closer; and so on with a 2-year projection. The only ones that come really close to being accurate are the very near term projections.

The interesting thing that happened during the break was that the near-term projections of the size of this year's deficit changed. They went down. In other words, we found out during the last week that those who spend their time looking at the size of the deficit have now looked at the numbers, now looked at the revenues coming into the Federal Government, and now project the current deficit will be roughly $85 billion less than was projected when we had the debate.

If we had had those numbers during the debate, obviously I would have referred to them to point out that it is not necessarily the size of the tax rate that determines the amount of tax revenue. That is a truth, again, that we repeat over and over but that gets forgotten over and over. What determines the amount of tax revenue is the amount of economic activity that takes place in the economy as a whole tied to the tax rate, not the tax rate itself. If you set the tax rate too high, you guarantee the economic activity will slow and the tax take will go down.

We cut the tax rate at the beginning of this administration, we cut it again last year, and we are now seeing economic activity pick up to the point that tax revenues have gone up. As I say, according to those who are now projecting this year's deficit, the tax revenues have surprised us to the point that we are now going to have roughly $85 billion more in revenue than was projected just a month ago.

That is a coincidental number because it comes very close to the $87 billion we are asking for. I will not suggest in any sense that we should tie those two together. The closeness is purely coincidental. Nonetheless, it demonstrates that those who want to use the deficit as the reason for support of their opposition to what we are doing in Iraq are going to have to find another excuse because the economy is responding to the tax treatment that came out of this Congress. In that response we are getting more tax revenue, and it is going to be less of a financial burden on this country than we thought it would be even as recently as a month ago.

All right. Let me turn now to the other argument we hear, over and over and over, in a constant drumbeat, with respect to Iraq; that is, the argument that this administration somehow misled the American people, misled the world by claiming Saddam Hussein was a threat. Then you get into the details of that claim, and they say he had no weapons of mass destruction, his economy was in ruins, he did not have the ability to threaten his neighbors, he was no threat or, if we can go back to a phrase I have seen some columnists use: Saddam Hussein was no Hitler.

I want to address that this morning. I would hope in this Chamber, of all places, we would have a sense of history, we would understand what really went on in times past, and what really is going on in a historical framework in our present time.

Let me take that phrase, ''Saddam Hussein was no Hitler,'' and use it as the framework for this kind of examination. If we go back in history to the time of Hitler, we can discover a time when I think it could be said accurately that Hitler was no Hitler. Let me explain what I mean by that.

The Hitler we think of when we look back in history now is the Hitler who stood at the head of a major army of a major nation state waging world war upon all of the other nations around him. Hitler did not start out as that kind of a Hitler. He started out as a politician with a relatively small following and a bitter message in a world of turmoil.

When he became the chancellor of all of Germany, he was a minority politician leading just one party of a series of parties. The primary individuals in Germany at the time thought by making him chancellor they could buy him off and use him and his party in a way that would allow them to continue their power. They misjudged him. When he became chancellor, he, of course, moved to consolidate his power rather than to cooperate with anyone.

He then led Germany into a very risky military operation. He moved to reclaim land that had been taken from Germany in the First World War and ceded to France. If the French Army—arguably the largest on the continent at the time—had confronted him in that move, it would have meant the end of his political career; it would have made sure that nazism, the Nazi party would have disappeared, and Hitler would have been gone. But the French were afraid of a little bit of combat, they were afraid of a little bit of confrontation, and they allowed Hitler to take over that territory.

Well, without going into a complete history of the time, let's go forward to the pivotal event that preceded the Second World War, the Conference at Munich.

Here are the circumstances that led to that event: Hitler had designs on Czechoslovakia. Hitler insisted that Czechoslovakia belonged to Germany and announced he was going to take it, and take it by force. The British Prime Minister, Neville Chamberlain, contacted Hitler and said: Can we meet one more time before you act to take Czechoslovakia by force? Hitler agreed, and they met in Munich, Germany.

Chamberlain was terrified that war might break out. Chamberlain was afraid Great Britain was not ready for war. Chamberlain was anxious to give Hitler whatever he could, and, ultimately, Chamberlain gave Hitler Czechoslovakia. Without the British honoring the implied guarantee they would prevent any invasion of Czechoslovakia, Hitler was free to take over that country.

Now, again, if we look at it through the lens of Hitler at the top of his power, we would say, well, he proposed to swallow Czechoslovakia by his tremendous army. In fact, however, Hitler did not have a tremendous army prior to Munich. He had one on paper, but he did not have one in actuality. His generals were terrified as to what would happen to that army if, indeed, it was

ordered into the field against the combined forces of the British and the Czechs.

Indeed, there is evidence that Hitler's generals were prepared to depose him, to overthrow him, and to take Germany out from under him if, in fact, the British stood firm in Czechoslovakia. But instead of standing firm, the British Prime Minister said: Why do we care about people who live so far away from us, with whom we have nothing to do? And he gave Czechoslovakia to Hitler.

Now, it was not just that he swallowed a small country. If we look back on the history of the time, Czechoslovakia had some of the finest factories capable of producing war materiel of any country in Europe. It had some of the finest machine shops and other skills. By taking Czechoslovakia, Hitler obtained an absolutely vital strategic asset that made it possible for Hitler to become Hitler.

May I draw some historic parallels. When Saddam Hussein took Kuwait, he was taking a small, defenseless country that had enormous revenues and that was strategically located. If he had been allowed to keep them Saddam Hussein might very well have been on his road toward becoming Hitler. However, the President of the United States at the time, the first President Bush, was not Neville Chamberlain. The first President Bush stood in the House of Representatives and told a joint session of this Congress: This shall not stand.

There were those in this Chamber who opposed the first President Bush in his decision to confront Saddam Hussein. Indeed, there were those who, in their own words, said much the same as Chamberlain: What do we have to do with these people so far away? Why should we be concerned with something so far from our shores?

Fortunately, the majority of the Members of this Chamber at the time supported the first President Bush in that decision and, if I may, denied Saddam Hussein Kuwait in a way that Neville Chamberlain failed to deny Hitler Czechoslovakia.

In the aftermath of that first denial of Saddam Hussein's ambitions, inspectors went into Iraq and discovered Saddam Hussein had a serious program of producing weapons of mass destruction. About that there can be no doubt. Let us understand that. Let me underscore it one more time. Saddam Hussein was engaged in a serious program of producing weapons of mass destruction, and about that there can be no doubt. President Clinton affirmed that to the Congress. Madeleine Albright affirmed that to the Congress. The United Nations affirmed that to the Security Council in the form of not one but a dozen resolutions.

Saddam Hussein, left unchecked in his first invasion of Kuwait, was on his way to becoming Hitler. It was the first President Bush who made the decision to stop it.

There is some uncertainty as to what happened to Saddam Hussein's weapons of mass destruction program after those inspectors were removed from Iraq in 1998. President Clinton believed the program was ongoing; Secretary Albright believed the program was ongoing; Prime Minister Blair of Great Britain believed the program was ongoing; and Inspector Kay, who has been there, confirmed that the program was ongoing. However, we have been unable to find caches of the weapons.

There are those who say: Well, since we can't find huge caches of weapons of mass destruction, the fact that the program was ongoing is immaterial; and, once again, when we went into Iraq the second time with the second President Bush, he did not represent a threat to us—he was not Hitler.

Again, history says if previous leaders had had the resolve of the two Presidents Bush, Hitler would never have become Hitler himself.

One of the things we have discovered in Iraq that says Saddam Hussein was, indeed, very much like Hitler is the mass graves. Estimates of those numbers of Iraqis who have ended up in mass graves have run as high as 500,000. Maybe there are still some to be discovered. There were efforts to hide those graves, just as Hitler made efforts to hide his concentration camps that became the instrument through which he sought the final solution to the Jewish problem.

His final solution, of course, was to eradicate them all, to send them to gas chambers, and then to bulldoze over the graves and pretend they had never been there. Saddam Hussein was doing the same thing in his own country to his own people, and we stopped it. By virtue of the resolve of the second President Bush, we stopped it. We stopped Saddam Hussein from reaching the kind of statistical plateau of horror that Adolf Hitler made famous in the world.

Am I sorry we stopped it? Do I now have to hang my head in shame when I meet my constituents who say the inspectors didn't find what you thought they would find and, therefore, you made a mistake in voting for this war?

Quite the contrary. As I examine the history of this situation, I am filled with gratitude for the first President Bush who prevented Saddam Hussein from taking over Kuwait and perhaps invading Saudi Arabia and thus becoming Hitler. And I am grateful and proud of the fact that I stood with the second President Bush, who moved into Iraq to make sure the weapons program we all know was going on did not reach the point where it could produce huge caches of weapons and that the slaughter, the systematic destruction of the Iraqi people who disagreed with Saddam Hussein, has been stopped. Are those consequences of which Americans should be ashamed? Are those consequences from which we should back away?

I believe, with Tony Blair, that history will look upon this action and say we did the right thing. We all were in the Chamber when he made the point that if we were wrong in assuming that the weapons of mass destruction were there in great numbers, the consequences of our actions, at being wrong, were the elimination of a brutal tyrant and the freeing of 20 million people and the possibility of stability in that region. He said history will forgive that error.

But, he said, if our critics were wrong, and the program, which we know was in place and which has been confirmed to have been in place by Inspector Kay, had gone forward and produced those weapons, Saddam Hussein would have become Hitler and history would never forgive that mistake.

I go back to Munich. At the time when Neville Chamberlain came back to Great Britain, polls were overwhelmingly in his favor. He was greeted with cheers everywhere he went. The one man in the House of Commons who stood up and said ''we have suffered a defeat of the first magnitude,'' whose name was Winston Churchill, got only a handful of votes in his opposition to Chamberlain. But, as Tony Blair said in our joint session, history has a harsh judgment of the mistake that Neville Chamberlain made. Neville Chamberlain's mistake allowed Hitler to become Hitler. George W. Bush made sure he would not make that same mistake in Iraq and allow Saddam Hussein to become Hitler.

Over the break, during the weekend, the Washington Post addressed this issue in some depth. The Washington Post, as we all know, is a paper that did not endorse George W. Bush for the Presidency and has often, in its editorial pages, been fairly harsh in its criticism. But the Washington Post is also a paper with editorial writers who were in favor of moving ahead in Iraq. Perhaps they had the same historic perspective I have tried to offer this morning, that we had to do something to stop, prior to the time when Saddam Hussein became Hitler, the possibility that he might. That is a doctrine that has now been called ''preemptive war,'' about which everybody complains around the world and says: That is just terrible. We should never establish the precedent of attacking or using military force before the threat is imminent.

Well, Neville Chamberlain would have been well served to have adopted the doctrine back in the 1930s, and the world would have saved millions of deaths if he had.

The Washington Post addressed this in an editorial that ran on Sunday. It went from the top to the bottom of the page in two columns called ''Iraq in Review.'' I ask unanimous consent that it be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BENNETT. It begins:

A reader asks: ''When are you going to admit you were wrong?'' We've received a

number of such inquiries (not all quite so polite) about our position on the war in Iraq, particularly from readers who were disappointed in our prewar stance.

They then go through all of the issues. There are certainly times where they are critical of the administration, critical of the administration in ways with which I might disagree. But they do make the essential points about the issues that are in contention, the essential point about the weapons of mass destruction.

They make the point that I have made here this morning, that Inspector Kay has demonstrated that Saddam Hussein had a program of developing weapons of mass destruction. Even if the caches of weapons have not been found, if the program had been allowed to go forward, the weapons would have come.

They talk about Saddam and al-Qaida. They make the point that while there is no direct link between Saddam and al-Qaida—and they claim the administration exaggerated, by implication, the links—that nonetheless there was a threat from terrorism in Iraq, and they summarize it with this sentence:

When combined with [Saddam Hussein's] continuing pursuit of weapons of mass destruction, that seemed to pose exactly the sort of threat that the Bush administration rightly focused on as part of the war on terrorism.

Then they talk about continuing costs. I have already addressed that this morning in my comment about the revision of the budget figures that says that the resurging economy we now have is going to give us a deficit that is going to be roughly $85 billion less than we were talking about as recently as the time before the break.

In addition to their editorial in which the Washington Post says we still stand by our support of the decision to move ahead in Iraq even though things are not going as we had all hoped, they have five military men talking about the war in op-ed pieces. I will not put those in the RECORD or read them. My reading of the five is that three of them say we have to stay there and go forward and get it done in roughly the way the administration is asking us to. Two are saying, no, this is a quagmire; we should pull out now and walk away.

How do I summarize my history lesson this morning? History comes in chunks bigger than 2-week periods. History comes in chunks bigger than a news site. The history of the last century and this one tells me the two Presidents Bush, in confronting Saddam Hussein in the way they did—the first in reversing Saddam's invasion of Kuwait and the second one moving in to preserve the lives of Iraqi citizens being slaughtered by a man with Hitlerian impulses, if not full Hitlerian power—acted properly.

I am proud to have supported the second President Bush in his decision to do that. I say this to many who are saying now that it didn't go the way you said it would, so therefore we have to walk away from it: Take a little time to read history and understand that things never go as people propose they will, but ultimately those who make the right decisions, for the right reasons, even if they have to make adjustments—sometimes serious changes in the way they pursue those decisions—are those to whom history gives the banner of having done the right thing.

EXHIBIT 1

[From the Washington Post, Oct. 12, 2003]

IRAQ IN REVIEW

A reader asks: ''When are you going to admit you were wrong?'' We've received a number of such inquiries (not all quite so polite) about our position on the war in Iraq, particularly from readers who were disappointed in our prewar stance. Now they cite several postwar surprises, or ostensible surprises: the absence of weapons of mass destruction, the absence of a proven connection between Saddam Hussein and al Qaeda and the continuing violence in Iraq. In light of these developments, it's important for supporters of military intervention to look back and, where necessary, reevaluate—something the Bush administration so far has resisted.

We believe that there has been more progress in Iraq than critics acknowledge, but also that the administration has made serious mistakes. Before the war, we repeatedly urged President Bush to plan postwar reconstruction more thoroughly and to level with Congress and the American people about the likely costs. We urged him to take the time to draw more allies to the cause. Shortcomings in both cases have proved highly damaging, as has the Pentagon's insistence on monopolizing political control over Iraq.

Yet simply to blame the administration is not a full answer to our readers. Taking the measure of the administration, of Congress and of their likely ability to see this through was a pre-war obligation, one of the factors in calculating risks and benefits. Moreover, postwar troubles and surprises were to be expected, even if they could not be precisely foretold. It's fair to ask now whether those troubles and surprises are so great as to prove the intervention unwise.

No matter how one answers that question, the critical judgments now involve future policy. It is essential that the United States do as much as possible to stabilize Iraq under a peaceable, representative government. It seems to us that opponents of the war ought to recognize, as some have, that this mission could be critical to the fight against terrorism and to the future of the Middle East. But insisting on doing the right thing now does not excuse supporters of the war from reexaming the judgments that led to this point.

Weapons of mass destruction. David Kay's 1,200-member survey team has reported that Saddam Hussein's nuclear program was ''rudimentary'' and that no large-scale production of chemical weapons occurred in recent years. We believed otherwise before the war, especially as regards chemical weapons, as did most governments with intelligence services. We have called on the Bush administration to account for what increasingly look like failures in the intelligence agencies' assessment of the Iraqi threat, as well as misstatements in the public case made for the war. The importance of this is hard to overstate: At issue is whether Americans, and the world, can believe U.S. intelligence on the activities of hostile, dangerous, but hard-to-penetrate states like Iraq; and whether this president can be trusted not to distort that intelligence in pursuit of his own agenda.

But at issue also is whether the war should have been fought. Don't we no know that Iraq posed no imminent threat to the United States and that there was thus no need or legal justification for an invasion? This question turns on the phrase ''imminent threat,'' which was invoked before the war by leading opponents of intervention, such as Sen. Carl M. Levin (D-Mich). The Bush administration conveyed its own sense of dramatic urgency, and that too is something it should account for in light of what is now known. But we argued that the threat from Saddam Hussein was not imminent but cumulative: He had invaded his neighbors, used chemical weapons and pursued biological and nuclear arms. He threatened U.S. interests and security in a vital region and would continue to do so as long as he was in power. A decade of diplomacy, U.N. sanctions and no-fly-zone enforcement had failed to end that threat. Instead the credibility of the Security Council, along with constraints on the regime, had steadily eroded.

The debate over intervention was fraught precisely because many people understood that Saddam Hussein was not an imminent danger. We argued nonetheless that the real risk lay in allowing him to defy repeated U.N. disarmament orders, including Resolution 1441, the ''final opportunity'' approved by unanimous Security Council vote.

Though it pokes holes in U.S. intelligence and our assumptions, Mr. Kay's report contains much to substantiate this reasoning. Saddam Hussein, the report claims, never abandoned his intention to produce biological, chemical and nuclear arms—and he was aggressively defying Resolution 1441. He also was successfully deceiving U.N. inspectors. They failed to discover multiple programs for developing illegal long-range missiles as well as a clandestine network of biological laboratories, among other things. From a legal standpoint, the report shows that Iraq should have been subject to the ''serious consequences'' specified by Resolution 1441 in the event of noncompliance. More important, it strongly suggests that in the absence of intervention Iraq eventually would have shaken off the U.N. inspectors and sanctions, allowing Saddam Hussein to follow through on his intentions. He would have been able to renew his attempt to dominate the region and its oil supplies, while deterring the United States with the threat of missiles topped with biological warheads. In acting to enforce the U.N. resolution, the United States eliminated a real, if not ''imminent,'' threat, while ensuring that future Security Council ultimatums carry some weight.

Saddam and al Qaeda. Mr. Bush and other administration officials, particularly Vice President Cheney, exaggerated the connections between Saddam Hussein and al Qaeda and implied without foundation that Saddam Hussein may have had something to do with the attacks of 9/11. Critics add that since the invasion, terrorists seem to have flocked to Iraq, where the occupation has had to cope with a series of car and suicide bombings. The terrorism is worrisome, though the principal group behind it appears to be Ansar al-Islam, which was based in northern Iraq before the war and whose leader spent time in Saddam Hussein's Baghdad.

For our part, we never saw a connection between Iraq and 9/11 or major collaboration between Saddam and al Qaeda. But we did perceive a broader threat, in the sense that Saddam Hussein had frequently collaborated with other terrorist organizations and could be reasonably expected to continue doing so.

When combined with his continuing pursuit of weapons of mass destruction, that seemed to pose exactly the sort of threat that the Bush administration rightly focused on as part of the war on terrorism.

Continuing costs. The difficulty of rebuilding Iraq is huge. The steady stream of U.S. dead and wounded is agonizing. The strain on the U.S. military, its reserves and the families at home is growing. But these developments, while troubling, are not altogether surprising—except maybe to those who believed the Bush administration's shallow prewar rhetoric. The calculation on intervention required a weighing of risks: the risk of allowing Saddam Hussein to remain in power, defying U.N. demands, versus all the well-articulated risks of intervention. Before the war, these were frequently said to include starvation, an outpouring of refugees, a fracturing of Iraq, a descent into ethnic conflict or simple chaos. We believed that reconstruction would be long, costly and risky, and we judged nonetheless that intervention would be less risky than allowing Saddam Hussein to remain in power.

Were we wrong? The honest answer is: We don't yet know. But at this stage we continue to believe that the war was justified and necessary, and that the gains so far have outweighed the costs. Each of the 326 American servicemen and women who have died in Iraq represents an irretrievable loss for family and friends. But the nation already has reaped great benefit from their sacrifice. One of the most aggressive and brutal dictators in the history of the Middle East has been eliminated, along with his proven programs to acquire deadly weapons. Millions of Iraqis have been freed from fear, and an opportunity has opened to bring much-needed political change to a region that is the source of the greatest security threats to the United States. Polls show a sometimes grateful, sometimes grudging willingness by most Iraqis to go along with U.S. plans for reconstruction.

Many Americans understandably have been surprised by the continuing casualties months after the president's appearance on an aircraft carrier under the banner ''Mission Accomplished.'' Mr. Bush's abrupt submission last month of a large and poorly explained spending request to Congress also has strengthened public support for the idea that the Iraq mission must be failing. Yet the president's missteps have merely obscured the facts that these costs were inevitable, and that outside of the Sunni towns where support for Saddam Hussein was strongest, there is no quagmire—only a slow, slogging progress forward.

Continued progress is far from guaranteed. In our view, the administration could improve the odds of success by forging a broader international coalition. For that to happen, the administration must drop its insistence on monopolizing power over Iraq's political transition, as well as the contracts for reconstruction. It must compromise with those well-meaning allies who want Iraq to succeed but disagree with U.S. tactics.

Success or failure in the effort to stabilize Iraq under a reasonably representative government that poses no threat to the world will provide the ultimate answer to the question of whether the war should have been undertaken. Because we continue to believe that U.S. security is at stake, we also believe that the United States must be prepared to dedicate troops and financial resources to that goal until it is achieved, even if it takes years. In our judgment success is possible, but much will depend on whether the administration and Congress face the magnitude of the challenge and summon the political courage and diplomatic skills necessary to meet it.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Ohio is recognized.

HONORING OUR ARMED FORCES

Mr. DEWINE. Madam President, I rise this morning to pay special tribute to a special man whose life ended exactly as he lived it—in service to others. LTC Dominic Rocco Baragona—''Rocky'' to his family and friends—passed away at the age of 42 on May 19, 2003, near Safwan, Iraq. He had been deployed to Iraq and Operation Iraqi Freedom on March 16, 2003.

Lieutenant Colonel Baragona, originally from Niles, OH, was commander of the 19th Maintenance Battalion based in Fort Sill, OK. As commander, he was in charge of nearly 900 soldiers. At the time of his death, he was the highest ranking U.S. service member killed in Iraq.

Rocky Baragona dedicated his life to his country. After graduating from West Point Military Academy in 1982, he spent the next 21 years serving our Nation. He served with distinction, upholding what GEN Douglas MacArthur called the soldier's code—a code of duty, honor, and country. During his military career, he was stationed in Germany and twice in Korea, where he was the Terrorist Force Protection commander. He also served as an officer in the 101st Airborne and with the Green Berets.

Rocky was brilliant in regard to logistics. He received many honors while in the Army, including the Meritorious Service Medal, the Joint Commendation Medal, the Army Commendation Medal, the Joint Achievement Medal, the Army Achievement Medal, the Parachutist Badge, and the Bronze Star.

His superiors relied on Rocky. As BG Richard Formica, a commanding general of the Third Corps Artillery at Fort Sill, said:

> I could count on him to tell me what I needed to hear, not what I wanted to hear.

Not only did they rely on him, they respected and admired him. According to BG Brian Gehan, who commands the Army's First Corps at Fort Bragg:

> Rocky was a man of tremendous passion and of tremendous integrity. It was those qualities that set him apart.

I didn't know Rocky Baragona, but I wish I had. I say that because I learned a great deal about this man from listening to his family and his friends describe this man's remarkable life. On June 18 of this year, I had the honor of attending two memorial services for him—a private service, and then his burial on the hallowed ground of Arlington National Cemetery. What I learned is that Rocky Baragona lived life well. He lived it with purpose and he lived it with love of family and of country.

At his memorial services, someone said when Rocky was around, everyone else just seemed happier; there was always more laughing. Others said he had a positive energy, was never judgmental, and never made fun of people.

He listened. He was a good friend. He looked out for his mom and his dad and he helped others achieve their dreams. He was selfless.

Without question, Rocky Baragona was a good man. He was a nice, decent, generous, hard-working man who loved his family unconditionally. He was always there for them, willing to help anyone, any time, any place. His family called him ''the rock.'' He was the cement that bonded that family. As his father said, ''When everybody went their own way, Rocky made sure the family stayed together.'' Whenever they needed anything, Rocky was there, whether it was at Christmastime to bring the family together and shower them with gifts, or just to watch the Cleveland Indian games with his dad.

Rocky will continue to be there for his family; he will continue to be there in spirit, forever loved and forever remembered.

LTC Dominic Baragona was a brave man who loved his country. He was a brave man who served as a true example of what defines patriotism and service to others. He was a brave man who dedicated his career and his life to helping his fellow man, fighting for a better future for us and for our children and our grandchildren.

Left to cherish his memory are his parents, Dominic and Vilma; his brothers and sisters, Tony, John, David, Pamela, and Susan; and several nieces and nephews. You all remain in my thoughts and in my prayers.

Madam President, I will conclude with something Rocky's brother John wrote when he described Rocky:

> Rocky was the smartest of the seven kids. He was the most generous of the seven kids. He was the kindest of the seven kids. He was always there for all his brothers and sisters. He was my dad's best friend and my mom's pride and joy. He was always looking out for everyone else.

That is who Rocky Baragona was, and that is how he will be remembered.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, can the Chair inform us as to the current circumstances involving morning business?

The PRESIDING OFFICER. The Senate is in morning business. The remaining 30 minutes are under Democratic control.

Mr. DASCHLE. I thank the Chair for the information. I will use my leader time rather than using morning business time to talk about three matters.

SUPPLEMENTAL APPROPRIATIONS

Mr. DASCHLE. Madam President, we are back, as all of our colleagues know, on the supplemental appropriations request offered by the administration. There are a number of amendments

pending—as I understand it, five—and there will be other amendments offered today. I urge colleagues to come to the floor to offer their amendments and to ensure we have adequate time by the end of the week to dispose of those amendments that have yet to be offered.

There is a good deal left to be done on the bill. Our focus will be on four areas. The first will be the need for the President to clarify more effectively what our plan is with regard to the use of the $87 billion, the $22 billion in particular for reconstruction aid. Today we saw yet another indication of the murkiness with regard to the plan. The administration has made a decision to reverse itself with regard to some of the demands it was making upon the United Nations, and, as a result, we are perhaps more hopeful now that the U.N. could be involved. But without a plan, it makes it very difficult for us to commit the resources. Simply asking for a plan is no substitute for the plan that is required.

Secondly, we want more transparency. Billions and billions of dollars are being spent. Corporations, such as Halliburton and Bechtel and others, have benefited, but we have no way of knowing how much, what will be the profit. When we passed the Marshall plan 50 years ago, we had an explicit prohibition on profiteering. There is no explicit prohibition today. As a result, there is no transparency as well. I think it is critical for us to have a better understanding for the taxpayers and the Congress to know precisely how this money is going to be spent and who is going to benefit and how, if we can, avoid the wasteful expenditures that some have already reported.

The third area we want to concentrate on is the need for a recognition that it ought to be paid for. Whether it is paid for in a way of collateralizing the money requested, if it is asking those at the very top of the income scale to help pay—there has been no request for sacrifice on their part—whether we simply make this a loan, recognizing that somebody is going to have to pay for this, somebody is going to have to be willing to borrow it and give it to Iraq or, the question is, Does it merit at least consideration that we ask Iraq to borrow the money rather than the United States? But somebody will borrow the money. That is the bottom line, and I think we need to recognize that point.

Finally, we also need to recognize important domestic priorities. Senator MIKULSKI and Senator BOND, as I understand it, will be offering an amendment to provide the resources necessary to fully fund the Veterans' Administration budget for this year. We are over $1 billion short. Their message is simply that if we are going to support the troops, we ought to support the veterans—the veterans who are coming home needing health care, veterans who are now being asked to wait up to 6 months for health care, in some cases. But there are important domestic priorities that ought to be addressed as well.

It is our hope that through this amendment, and other amendments like it, we will be in a better position to say, yes, we want to be supportive of the need to reconstruct, to provide the resources to Iraq, but we also need to recognize the importance of providing those resources as well for important needs here at home, especially those involving veterans.

That will be the debate for the week. I am hopeful that many of these amendments will be adopted; that we can improve the legislation as it was offered and proposed, and, at the end of the day, we have the assurance we know where the money is going; that at least in part it will be paid for; that it recognizes domestic priorities; and that there is a plan, a recognition that we are not going to be there interminably; that we need a clear and much more precise way of analyzing our success or our shortcomings as we commit these resources for the course of the next several months.

CURRENCY MANIPULATION

Mr. DASCHLE. Madam President, there is another issue I wish to mention. It has to do with a requirement by law that the administration issue a report on currency manipulation by October 15. That is the law. There is a requirement passed by the Congress, signed by the President, that the administration needs to provide a clear understanding of the circumstances, especially involving China and Japan.

We have good reason to believe there is dramatic currency manipulation underway in those two countries; perhaps as much as 40 percent of the current strength of the Chinese yuan can be directly attributed to currency manipulation.

When we passed the law, we said the Congress needed, first, to receive the report from the administration and, second, that the administration needed to lay out its specific plan for dealing, confronting, and effecting ultimately this manipulation so that the extraordinary impact it is having on our trade balances and, therefore, on our economy could be dealt with.

We currently have a $103 billion trade deficit with China and a $70 billion trade deficit with Japan. We have lost over 2.5 million manufacturing jobs just in 3 years. A lot of those jobs are going directly to China and Japan, to places in Asia.

The hardest hit industries in the last 2½ years include 67,000 jobs lost in the plastics industry, 15,000 jobs lost in machine tool manufacturing, 21,000 jobs lost in tool and die manufacturing, 100,000 jobs lost in furniture manufacturing, and 139,000 jobs lost in the textile manufacturing industries.

What we are suggesting is that, first, the administration do what the law requires. I come to the floor this morning very concerned with the reports I have heard that the administration has no intention of releasing its report on time; that there will not be the report required by law that they will provide us with as clear an understanding of the circumstances involving currency manipulation as they can.

We also ask, not only do they offer the report, do they present the report to the Congress, but that they do what the law also requires, which is to enter into formal negotiations with all of those countries for which we are concerned as it relates to currency manipulation.

Finally, we also propose that they pursue a section 301 trade law investigation to set the stage for WTO and further action by the WTO in these cases, unless first we report and, secondly, provide specific and direct bilateral action and then pursue the laws as they are affected in this 301 matter.

There is no way we can begin addressing the very serious problems we have with regard to the manufacturing and service industry job loss we have experienced now in the last 2½ years. October 15 is upon us. The report needs to be provided, and I hope the administration will follow the law and do what the law requires and give us the report and allow us to work with them to enter into formal investigations at the earliest possible date.

JUSTICE DEPARTMENT INVESTIGATION

Mr. DASCHLE. Finally, I will talk about our grave concern with regard to the ongoing investigation in the Department of Justice with regard to the leak of CIA agent Valerie Plame. In a letter to the administration, we have noted they need to address five specific missteps we think directly hinder and perhaps may adversely affect the outcome of this investigation.

First, the Department of Justice commenced this investigation on Friday, September 26, but did not ask the White House to preserve all relevant evidence until September 29. No one knows why. For those 4 days, the investigation went on without any formal request of the White House or anybody else to preserve all relevant documents.

Second, after the request, White House Counsel Alberto Gonzales asked for yet another delay, until the following day, before any of the relevant evidence would have to be provided. This is a significant departure from standard practice and, again, mysteriously inexplicable.

Third, no request was made of State and Defense Department agencies until October 1, almost a week following the request made of the White House. Again, that is completely inexplicable. What is even more troubling is that the Wall Street Journal reported that a request would be made to the Department of Defense and the State Department the very day it was done, again

tipping off all of those who may have had some reason to destroy evidence.

Fourth, White House spokesperson Scott McClellan stated he has already determined that three White House officials—Karl Rove, Lewis Libby, and Elliott Abrams—had not disclosed any information. Now, he is not a member of the investigation. He has no legal expertise. He is the current White House spokesperson, but he said he personally made that determination and could announce with confidence they were not involved.

That perhaps is the most troubling of all. How can someone with no legal expertise say with official acclamation that these individuals are not involved? First, he does not have the expertise. Second, if indeed that turns out to be wrong, someone in the Justice Department is going to have to confront the White House and reverse that pronouncement, making it all the more difficult for the investigation to go forward.

Finally, the investigation continues to be overseen by Attorney General Ashcroft, someone who has very close personal and political ties with many of those who are at least subject to an investigation. That, too, is extraordinarily troubling.

I was concerned last week when the President said it was unlikely that any guilt could be found; that it was unlikely this investigation would prove to be productive. That, too, sent a chilling message to all of those who are investigating.

So these are very serious missteps that call into question whether this investigation is going to be carried out in the deliberate, thoughtful, and thorough way it demands.

I think we ought to ask, Who is in control here? Why has somebody not been appointed to provide the answers to these questions and to deal with these serious missteps? They get worse. The cloud of doubt hangs over the investigation.

Some have suggested there may be a coverup, but I think it is important for us to determine the facts, get the information, deal with the eroding confidence people have in the quality of this investigation, and ultimately bring it to a successful conclusion.

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

Mr. DASCHLE. I am happy to yield.

Mr. REID. From the statement the Senator has made, it is my understanding that out of the $87 billion the President has requested, the Senator from South Dakota has said that some $21 billion will be for the reconstruction of Iraq, not dealing with the military but for the reconstruction of Iraq, and that someone is going to have to borrow that money. It is a question, as I understood the Senator from South Dakota, whether the taxpayers of America will borrow that money or whether the people of Iraq, with their large oil reserves, will in effect borrow the money. Is that in fact what the Senator said?

Mr. DASCHLE. The Senator from Nevada heard me exactly right. I was interested in comments made earlier today that we really do not have to worry that much about the exploding deficit; that it is not that serious. Well, that is not what the CBO said.

About a month ago, the Congressional Budget Office noted that at current rates the debt is not sustainable; that we are not going to be in a position to provide the kind of debt service ultimately, within the course of the next 10 years, if nothing changes.

The debt we have already authorized is going to expire once again. We are going to have to increase the debt limit within the next several months. We are told by some groups outside the CBO that we could see a total Federal debt within 10 years of anywhere from 8 to 10,000 billion dollars.

That is right, 8 to 10,000 billion dollars. That is $8 trillion. That amounts to somewhere in the vicinity of $70,000 to $75,000 for every man, woman, and child in the country. That is what we are facing right now.

For us to say we are going to exacerbate that by borrowing even more to provide reconstruction assistance to Iraq is deeply troubling. They sit on perhaps the largest oil reserves in the world. It seems to me those oil reserves ought to at least be considered. Even though they are not available today, at some point that oil can be tapped. If it can be tapped, it seems to me it would make a lot more sense for us to collateralize that oil than to borrow even more money, adding even greater debt to every man, woman, and child in this country.

I appreciate very much the question of the Senator from Nevada.

Mr. NELSON of Florida. Will the Senator yield?

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

Mr. NELSON of Florida. I have a couple of questions for the minority leader. On the question of the debt, it is estimated that in the fiscal year that just began, October 1, we are going to end up sending more than we have coming in, in tax revenue this year to the tune of $600 billion. That is over half a trillion dollars.

My question to the minority leader is this. I have gotten feedback from innumerable townhall meetings over this past week in my State of Florida from people who are so concerned that by our not having the revenue and therefore having to borrow that, they are not going to be able to get the expenditures of the Federal Government in areas such as education, transportation, and health care. Would the minority leader comment on that?

Mr. DASCHLE. The Senator from Florida is absolutely right. We are being told we cannot fully fund the No Child Left Behind Act, which would require about $6.5 billion, most of which goes to those who are special needs children. Over $6 billion of it goes to special needs children. We cannot afford that, we are told, because the money just is not there. We are told we cannot afford the close to $1.9 billion our veterans need to fully fund the Veterans' Administration, for the health needs of the veterans, the very people returning from Iraq today. We are told the money is not available. We are told the money is not available to fully fund a highway bill this year. I am told we would need somewhere in the vicinity of $30 to $40 billion to fully fund the highway fund. We may not be able to do that because I am told the money isn't there, so I am very troubled. We are told we don't have the resources for funding of highways and housing and health care in America, but we have the money to fund housing and highways and health care in Iraq. That is something we have to confront a lot more effectively as we consider this legislation.

Mr. NELSON of Florida. If the Senator will further yield?

Mr. DASCHLE. I am happy to yield.

Mr. NELSON of Florida. Madam President, I ask the minority leader if he would comment further after his clear statement of having five times requested information about discrepancies in the White House with regard to the outing of a CIA agent. If I recall, when this fiasco broke several weeks ago, there was an attempt to minimize it by stating that the CIA employee was merely an analyst, not an operative. It is my subsequent understanding that, to the contrary of that minimization, the CIA agent whose identity was made public by someone in the administration clearly was a very important operative, as reported, I believe, in the Washington Post.

Would the minority leader comment on the seriousness of this kind of outing, on the seriousness of it with regard to the security interests of the United States?

Mr. DASCHLE. Madam President, I answer the distinguished Senator from Florida that, indeed, he is correct. So as not to further compound the problem, I have made it a practice not to reference the agency with which she was associated. I think we have to be very sensitive about that.

But not only was an agent outed but an agency within the CIA was outed as well, something that was not well known. So the depth of damage, not only in exposing an individual but in exposing, as well, a kind of operation underway within the CIA is extraordinary in the magnitude of concern that it ought to cause all of us.

It is all the more reason this investigation is so critical and why we should do all that is possible to find out who may be responsible. For the President to say it is unlikely we will ever come up with who it may have been, I think is deeply troubling because I think it is critical that the laws be upheld and those responsible be prosecuted.

Mr. NELSON of Florida. If the Senator will further yield, it is also this

Senator's understanding that this revealing of the identity of a special agent has so enraged the CIA and its employees that even though there may be an attempted coverup of this in the White House, that it is likely this issue will continue to bubble to the surface; is that the understanding of the minority leader?

Mr. DASCHLE. I have not had any specific report to that regard. But the Senator from Florida has read many of the same news reports I have read, which indicate that CIA personnel take this very seriously, and that to make light of it, to minimize it, to ignore it, to do whatever may be now underway with regard to a questionable investigative effort, is a huge mistake and sets a dangerous and very troubling precedent as we consider situations similar to this in the future.

Mr. NELSON of Florida. I thank the Senator for his comments.

Mr. DASCHLE. I thank the Senator from Florida for his comments, and I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, parliamentary inquiry: Are we now beginning morning business that has been allocated to this side of the aisle?

The PRESIDING OFFICER. We are in morning business and 21 minutes remain for the Senator's side of the aisle.

Mr. NELSON of Florida. Madam President, I was under the understanding that was leader time?

The PRESIDING OFFICER. Leader time had expired.

Mr. NELSON of Florida. I see. Then, in deference to my colleague, I will just make a couple of comments, and then I will certainly want to hear from my colleague who is one of the greatest orators in this Chamber, the senior Senator from Illinois.

The PRESIDING OFFICER. The Senator from Florida.

FUNDS FOR IRAQ

Mr. NELSON of Florida. Madam President, I have had a wonderful time this past week in my State of Florida, over the course of 4 days, having about 25 townhall meetings, many of those townhall meetings in the smaller communities and in some cases rural communities of our State. We have a State that has a wonderful blend of urban and rural. Indeed, the State of Florida, as we so well know in politics, is often a deciding factor in a Presidential race because Florida has become a microcosm of the country as a whole, with many people moving to Florida from other parts of the country. Indeed, people are moving to Florida from other parts of the world, particularly the Western Hemisphere.

There have been very clear messages that have come to this Senator from Florida from the people of that State as expressed in these townhall meetings in the past week. One of the clear concerns is that people are uneasy with the fact that $87 billion is going to be spent on the occupation in Iraq when there are so many needs here at home. As I would break down that $87 billion for the people in these townhall meetings I would point out that $67 billion will be relatively noncontroversial because that is money that goes to the support of our U.S. troops. What is at controversy is the $20 billion requested for reconstruction in Iraq. The World Bank says $70 billion will be needed. So this is the first downpayment on $70 billion, and the administration is proposing that $20 billion come from the United States right now.

What is it for? It is for building of roads and bridges, it is building schools, it is providing teachers, it is providing training of teachers, it is providing $800 million for the restoration of wetlands. It is providing for all of the infrastructure such as water systems and road systems and electrical systems.

As I would explain this, I would see people get very restive in these townhall meetings, for they would say: Well, what about our needs for restoring wetlands in Florida? What about our needs for building roads and bridges and repairing roads? What about our needs for money going into education, just as the majority leader has talked about in the $6.5 billion that is needed to fully fund the No Child Left Behind Act—the disadvantaged kids.

What about the superintendents of the school systems who came to every one of those townhall meetings and said not only did they need that kind of assistance in their schools, but need resources to take care of disabled kids, too?

What about the IDEA legislation, of fully funding it?

The clear message that came to me regarding the legislation we will be considering here today on the infrastructure needs in Iraq and the infrastructure needs of our people at home here in America.

We will be considering a number of amendments that do not have to be an either/or question because clearly it is in the interest of the United States to stabilize Iraq, and that we stabilize it politically and economically. But it doesn't have to be an either/or question. Iraq is sitting on the second largest deposit of oil reserves in the world. There is going to be a revenue stream once that oil is up and producing at maximum capacity. There is going to be a huge revenue stream coming from that oil. One of the amendments we are going to consider is the amendment to pledge future Iraqi oil revenue to pay back the $20 billion the United States of America is going to provide for building up the infrastructure, including the $800 million for wetlands restoration.

That is a clear message given to me from the folks who came to these townhall meetings.

I will close with this, because I want to hear from the Senator from Illinois.

There was another bombing just a few minutes ago in Iraq. It was the bombing of the Turkish Embassy in Baghdad. It is clearly at first blush my impression that this is an attempt at intimidation of the Turks because they have indicated they were considering in their Parliament the sending of troops to assist United States troops in Iraq.

There was another bombing yesterday. We are having, on average, one bombing a day, and/or the killing of U.S. and Iraqi civilian personnel. Iraq has become a magnet for terrorists.

It is clearly in America's interests to stabilize Iraq. Yet, where is the attempt of the White House and this administration to reach out to the international community at the behest of bipartisan voices in this Chamber? Many of those bipartisan voices come from the Senate Foreign Relations Committee saying you don't want just an American face as an occupier in Iraq; that what you want is an international face; that this is an international problem and not just America's problem; and we have to turn Iraq around from being a magnet for terrorists.

It is my hope the administration will finally start listening to Republicans and Democrats in this Chamber who have not only argued but who have pled for an international approach to stabilize Iraq.

Look at the experience in Bosnia. We are finally getting Bosnia stabilized. But it has taken 8 years. The United States had to go into Bosnia first. But then we were able to bring in the world community, including the United Nations. That can be a good model for us, but it is also a realistic model to realize that it is going to take a lot of troops and it is going to take a lot of time.

With that somber note, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, how much time is remaining in morning business?

The PRESIDING OFFICER. There are 12 minutes remaining.

Mr. DURBIN. Thank you very much, Madam President. I thank the Senator from Florida for his comments.

JOB LOSS

Mr. DURBIN. Madam President, as Senator NELSON did, I went back to my State of Illinois during the past week and really went from one end of the State to the other. I visited with the chambers of commerce, labor unions, community leaders, hospital administrators, and average people, and talked about things that are on their minds. What struck me was the agenda of America is not the agenda of Congress. I can't get over it. We return here to Washington to discuss important matters but, frankly, ignore the essentials

as far as families and businesses across America.

The number one issue, of course, is jobs. My State has been hit so hard by this recession. We have lost 3 million jobs nationwide under President Bush's administration. It is the largest loss of private sector jobs under any President since the Great Depression—the largest loss of jobs under the Bush administration since Herbert Hoover during the Great Depression. Clearly, there has been a lack of economic leadership by this President. Clearly, his plan for the economy of America has failed. Giving tax cuts to the wealthiest people in America certainly wins applause at the country club, but it doesn't create jobs on Main Street—not in Illinois, not in Florida, not in Maine, and not across America. We have seen such a dramatic loss of jobs in important sectors. Although the manufacturing sector in America only represents about 14 percent of the jobs in our country, 75 percent of the jobs lost under the Bush administration have been in this manufacturing sector—14 percent of the total manufacturing and 75 percent of the Bush job loss has been in manufacturing. It has hit my State particularly hard. Illinois has lost over 123,600 manufacturing jobs since President Bush was sworn into office, including 23,000 this year. Frankly, those are good-paying jobs—jobs people need to raise their families. They are not minimum wage jobs. These are jobs you count on to buy a home or to send a child to college. They are gone. They have gone overseas, primarily to China.

I have heard over and over as I traveled across my State that it is just the tip of the iceberg. A lot of people say, Senator, you talk about manufacturing jobs. As bad as that is, we are losing service sector jobs, too.

I came across an illustration in downstate Illinois in a medium-sized city, which I will not name for the sake of the hospital administrator who told me the following. If you come into my hospital in the middle of the night and need an x ray, we will take your x ray in the middle of the night in a downstate Illinois hospital. Then we will transmit it electronically to Australia for it to be read because there is no radiologist on duty. The x ray is read in Australia for people showing up at the emergency room in downstate Illinois. He said, When the doctors dictate the notes for the patients' records every day, those dictation tapes are sent electronically to India where they are transcribed. This is a downstate hospital.

Go to Florida, go to Maine, or go to Nevada, and ask the question, ask your people if they received a phone call last night about changing their long distance telephone services. Ask them to stop and ask the person where they are calling from. Do not be surprised if that person is calling from India.

We are seeing an outmigration of jobs from the United States—manufacturing jobs and service jobs. This administration is oblivious. What they have suggested is to create one job in the Department of Commerce to try to figure out why America is losing jobs. I can tell you why we are losing jobs. It is because we have an economic policy that has failed—tax cuts for the wealthy. All it has done is give us a historic, massive deficit by taking money out of the Social Security trust fund—money that could be spent on education and health care which is just not there.

The second reason is this administration refuses to confront trade realities. I have voted to expand trade. I believe in trade but only if there are rules and the rules are followed. The rules aren't being followed in China. China today has a currency valuation that gives it a 15–40 percent advantage over any American manufacturer. Go around your State and ask these small manufacturers. They cannot compete because this administration will not confront China because of political realities: We need China; We need them to sit down with North Korea and avoid a nuclear war. So we are afraid to confront them when it comes to trade reality. We lose businesses and jobs permanently because of the lack of leadership of this administration. That is a fact.

The second issue which I have found to be overwhelmingly and completely ignored by this Congress and this administration is the cost of health insurance. I invite any of my colleagues to meet with any business leader in any State in America and ask them what their number-one problem is. It is not going to be the so-called ''death tax.'' It is not going to be government regulation. It isn't going to be environmental regulation protection. It is going to be the cost of health insurance. It is killing these businesses. They cannot afford it any longer. They tell me over and over. You know what is happening? More and more Americans have been shoved off the rolls with no protection. Those who stay on are expected to pay more out of pocket and get less protection. What has this administration said about the cost of health insurance in America? Zero; nothing; nada. This administration has no response when it comes to the cost of health insurance.

There is one area, though, where they have been pretty vocal. They have stood up for the pharmaceutical industry, which is one of the main drivers in the cost of health insurance, to make sure they can continue to charge the highest prices in the world for the most vulnerable Americans here at home. That is their philosophy. Let the marketplace work this out.

I have news for them. The marketplace is working this out. Health insurance companies exist to make a profit. They make a profit by cutting costs and increasing profits. That is what is happening. They have cut their costs by taking sick people and pushing them off the rolls and reducing the coverage of those already on the rolls and charging higher premiums. Businesses in America are getting nailed with health insurance premiums. But back to the trade issue: Every extra dollar in health insurance is embedded in the cost of the product that is sold. If it is a car or a computer, included in that cost is the cost of health insurance in America. And this administration, the Bush administration, and this Congress, dominated by the Republican leadership, refuse to even address this issue.

The third issue we will debate this week is the war in Iraq. Now, I will repeat—although it is now a cliche, it is true—we will stand behind our troops and give them what they need, but when we look at what this administration is proposing for the reconstruction of Iraq, it really does betray a lack of preparation and a lack of thoughtful reflection on what we are dealing with.

What is the nation of Iraq? Iraq is a nation, if we can use that term loosely, that was conceived in the mind of a British colonial empire. They drew a line on the map and said, We will call this spot Iraq. We will put within those borders two warring Muslim factions; and just for good measure, let's include hundreds of thousands of Kurds who do not want to be there. And we will call this Iraq. Because this situation, which they called a nation, was almost unruly and unmanageable, first they had a king, followed by a ruthless dictator. It took that kind of iron will to maintain this country.

Now this President says, with the $87 billion, we are going to establish an economy, a civil society, and a democracy in Iraq.

Excuse me, this is a long-term undertaking. To take a group of people with no history of nation state, with no history of self-governance, and say to them, America can send enough money to make you a nation, perhaps we can, but it will be a great expense to the people of this country, a great expense to Americans who need help in their schools.

I heard the same thing the Senator from Florida heard—no child left behind, President Bush's great idea. I voted for it. Perhaps the Senator did, too. The money is not there. It is not there because the President says we cannot afford it. We have to send money to Iraq. We have to build schools in Iraq.

I am sorry, I am one who supports foreign aid. I voted for it. I believe in it. But I didn't support this war. I didn't give the President the authority he asked for on the use-of-force resolution. I said, and others did as well—23 Senators voted as I did—it is easier to get in a war than it is to get out of it. This President is learning this bitter lesson. He comes to us for $87 billion, $20 billion for the rebuilding of Iraq. And that is not even half of what we expect will be needed.

We are in for the long haul, to get up every single morning, to turn on NPR

and hear the news being led off by the story: Another American soldier killed and more wounded.

Just so people understand the gravity of this, a wounded soldier is not a flesh wound in all cases. Some of these soldiers, our best and brightest in America, have lost limbs. Their lives have been damaged and changed forever. They are just listed as ''wounded.'' But those wounds go deep and those families and those soldiers will bear them for many years to come.

That is where we are in this war in Iraq: This President ignoring the economic realities of America with the loss of jobs, ignoring what has happened because of the economic policy that has failed, refusing to acknowledge the cost of health insurance and these astronomical profits of the pharmaceutical companies, caving in to the special interests on Capitol Hill, ignoring the real people, the small businesses, the families across America who ask us to stand up for them. Instead, we are going to send $87 billion to Iraq to try to build an economy there.

Sadly, we should start here. Let's build America's economy. Let's try to make sure we focus on what we need as a nation. This administration has not done that. The American people will awaken to that. Congress should as well.

I yield the floor.

Mr. REID. Will the Senator from Illinois yield for a question?

Mr. DURBIN. I am happy to yield.

Mr. REID. There are a number of strikes going on as we speak. The latest started in Los Angeles with all the transit drivers. That is a result of problems with health care. The problem with automobile manufacturers, the other strikes going on in America involve one issue: health care. So the Senator's statement regarding health care and this administration's total neglect is one of the most important domestic issues facing America today.

I appreciate very much the Senator's statement.

Mr. DURBIN. I say to the Senator from Nevada, through the Chair, this is a pervasive issue. It used to be you could separate on trade and health care, business on one side and labor on the other. If I took you into a room and did not tell you the origin of a group in a room and you listened to a business group on these issues of trade and health care, you would think you were in the labor group. If you went to a labor group, you would expect to hear some concerns about what trade policy in this country has done and what health care does.

I find over and over again that these people are despairing. They are despairing because they have been told by this administration, let the marketplace solve the problem. The marketplace has not solved the problem.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR IRAQ AND AFGHANISTAN SECURITY AND RECONSTRUCTION ACT, 2004

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the Senate will resume consideration of S. 1689, which the clerk will report.

The assistant legislative clerk read as follows:

A bill, (S. 1689) making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Byrd amendment No. 1818, to impose a limitation on the use of sums appropriated for the Iraq Relief and Reconstruction Fund.

Byrd/Durbin amendment No. 1819, to prohibit the use of Iraq Relief and Reconstruction Funds for low priority activities that should not be the responsibility of U.S. taxpayers, and shift $600 million from the Iraq Relief and Reconstruction Fund to Defense Operations and Maintenance, Army, for significantly improving efforts to secure and destroy conventional weapons, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles, in Iraq.

Reid (for Stabenow) amendment No. 1823, to provide emergency relief for veterans health care, school construction, health care and transportation needs in the United States, and to create 95,000 new jobs.

Bond/Mikulski amendment No. 1825, to provide additional VA Medical Care Funds for the Department of Veterans Affairs.

Dorgan amendment No. 1826, to require that Iraqi oil revenues be used to pay for reconstruction in Iraq.

The PRESIDING OFFICER. The democratic assistant leader.

Mr. REID. Madam President, Senator STEVENS is not here. I am covering the floor for Senator BYRD this morning. I am sure Senator STEVENS would have no objection to the Senator from New Mexico offering an amendment. I yield the floor for the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 1830

Mr. BINGAMAN. I thank my colleague from Nevada.

Madam President, so there is no question about the opportunity for others to speak, I was asked if I would describe my amendment first and then at the end of my description I will ask to set aside the pending amendment and send my amendment to the desk. That is how I will proceed.

I intend to offer in a few minutes an amendment on behalf of myself, Senator LUGAR, Senator LIEBERMAN, Senator BAYH, Senator CLINTON, Senator DURBIN, Senator LANDRIEU, Senator LINCOLN, Senator SMITH, and Senator REID. This is an amendment to honor our service men and women in Iraq who are serving far from home, far from family, far from friends.

Let me indicate from the title of the amendment that I intend to send to the desk what it would do: to authorize the award of the Iraqi Liberation Medal as a campaign medal for members of the Armed Forces who serve in Southwest Asia in connection with Operation Iraqi Freedom.

These service men and women, as we all know, have left the security of this country and their home behind to provide freedom and security for those who have not known it for many years. The human cost has been substantial, over 300 American fighting men and women will never come home. There are over 1,200 who will return wounded, far higher than previous conflicts.

I have a chart that demonstrates the grim statistics, showing the casualties our military has incurred in recent conflicts. In Operation Desert Storm, with which we are all familiar, the casualties, total deaths were 382, killed in action, 143, and the wounded were 467. In the Kosovo campaign, there were 16 deaths. In Operation Iraqi Freedom, as of last week, there were 196 killed in action, 309 total deaths, and 1,268 wounds.

So the casualties have been significant. This is not a minor military activity. We have over 130,000 troops in the region. They remain to ensure that those who died and those who were wounded did not suffer and die in vain. They are also there to build a new Iraqi nation and to provide stability and freedom in that nation.

The liberation of Iraq is turning out to be the most significant military occupation and reconstruction effort, clearly, since the end of the Vietnam war and perhaps even before that. Despite their sacrifice and courage, these brave men and women will not, under current policy, be specifically recognized for their service in Iraq. Instead, the Department of Defense has decided to award them a Global War on Terrorism Expeditionary Medal.

This issue was drawn to my attention by an article that appeared in the Army Times and the Navy Times and the Air Force Times called ''One Size Fits All?'' ''The Pentagon plans to award one medal for the wars in Iraq and Afghanistan, and for any future campaigns related to the war on terrorism.''

I believe this is a mistake in policy, that our military personnel deserve better. Accordingly, my colleagues and I are offering this amendment to correct the mistake by ensuring there is authorized an Iraqi Liberation Medal in lieu of this Global War on Terrorism Expeditionary Medal.

As all who have paid attention in the Senate know, some of us did not agree with the administration's decision to proceed in Iraq when it did, but clearly we have all been united in our support of the troops. Young men and women, both active-duty personnel and National Guard and Reserve, have come forward and done their duty. That is clearly the essence of patriotism, and we all respect that.

They continue to serve even though they do not know when they will be returning to their families and to their communities. They continue to serve despite the tremendous hardships they face and despite the constant threat to their lives.

The President, of course, has agreed entirely with this view of the exemplary service our men and women have provided. He has made many statements to that effect, and there is no partisan disagreement on any of that.

Let me put up another chart in the Chamber.

During Operation Desert Storm, service members received three separate military decorations for their service: the Armed Forces Expeditionary Medal; the Liberation of Kuwait Medal, given by the Government of Saudi Arabia; and the Liberation of Kuwait Medal, given by the Government of Kuwait. Those are all three depicted on this chart.

In the case of Kosovo, our service men and women received the NATO Service Medal and the Kosovo Campaign Medal. And those two medals are depicted on this part of the chart.

In the case of this current conflict in Iraq, the proposal by the administration is to give them the Global War on Terrorism Expeditionary Medal, and that would apply to Operation Enduring Freedom or Operation Iraqi Freedom or any operation in the Philippines or any future global war on terrorism operation.

The policy as it now exists would say that if you are in the military and you are directed to duty in one or more of these operations, you get this generic medal which indicates you are part of the global war on terrorism, which we know is of indefinite duration and which we know is not limited by any geographic limitation.

There is a difference—a substantial difference—between an expeditionary medal on the one hand and a campaign medal. We only need to look at an excerpt from the U.S. Army Qualifications for the Armed Forces Expeditionary Medal and the Kosovo Campaign Medal. In order to receive the Armed Forces Expeditionary Medal, you do not need to go to war, you only need to be ''placed in such a position that, in the opinion of the Joint Chiefs of Staff, hostile action by a foreign armed force was imminent even though it does not materialize.'' So that is an expeditionary medal.

To earn the Kosovo Campaign Medal, there was a higher standard. A military member had to either ''[b]e engaged in actual combat, or duty that is equally hazardous as combat duty, during the Operation with armed opposition, regardless of time [spent] in the Area of Engagement.''

Many within the military agree there is a significant difference between an expeditionary medal and a campaign medal.

According to the Army Times:

Campaign medals help establish an immediate rapport with individuals checking into a unit.

An expeditionary medal does not necessarily denote any combat or any real connection to that particular area of potential combat. A campaign medal is designed to recognize military personnel who have risked their lives or are risking their lives in combat.

Obviously, all of us want to see proper recognition given to our young men and women who are in Iraq, including Army SP Joseph Hudson from my home State of New Mexico, from Alamogordo, NM. He was held as a prisoner of war. The Nation was captivated, and particularly people of my State were captivated, as we watched Specialist Hudson being interrogated by the enemy on videotape. Asked to divulge his military occupation, Specialist Hudson stared defiantly into the camera and said: ''I follow orders.'' Those of us with sons and daughters were united in worry with Specialist Hudson's family. The entire Nation rejoiced when he was liberated. He is just one of many who deserve this special recognition I am arguing for today.

We have also asked much of our Reserve and National Guard personnel. The reconstruction of Iraq clearly would not be possible without the commitment and sacrifice of the 170,000 Guard and reservists who are currently on active duty. As recently as this last week, an additional 10,000 troops from Washington State and North Carolina were activated for service in Iraq.

I think this is a straightforward amendment, one for which I hope we can have very strong support. I am very pleased that it is being proposed as a bipartisan amendment. My colleagues and I are committed to appropriately honoring the 200,000 or so heroes who have served to date or are serving in connection with the effort in Iraq. We believe current administration policy does not properly honor those personnel, and therefore we propose that in lieu of this Global War on Terrorism Expeditionary Medal, a new decoration that characterizes the real mission in Iraq—one that is distinctive and honors their sacrifice, something in the nature of an Iraqi Liberation Medal—be provided.

Some will argue that Congress has no business legislating in this area. But I point out there is ample precedent for what we are proposing. Congress has been responsible for recognizing the sacrifice and courage of our military forces throughout history. Congress has had a significant and historically central role in authorizing military decorations. Our Nation's highest decorations were authorized by Congress. Those include the Congressional Medal of Honor, the Air Force Cross, the Navy Cross, the Army's Distinctive Service Cross, the Silver Star, and the Distinguished Flying Cross. All of those were authorized by Congress.

We have also authorized campaign and liberation medals similar to what is being proposed here in many cases. A partial list includes the Spanish War Service Medal, the Army Occupation of Germany Medal, the World War II Victory Medal, the Berlin Airlift Medal, the Korean Service Medal, and the Prisoner of War Medal, in addition to the medals I have referred to already.

The men and women of our military are doing their jobs every day in Iraq. We should do our job by honoring them appropriately with a medal that is specific to their sacrifice and to this campaign in Iraq.

Mr. President, I send the amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. LUGAR, Mr. LIEBERMAN, Mr. BAYH, Mrs. CLINTON, Mr. DURBIN, Ms. LANDRIEU, Mrs. LINCOLN, Mr. SMITH, and Mr. REID, proposes an amendment numbered 1830.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To authorize the award of the Iraqi Liberation Medal as a campaign medal for members of the Armed Forces who serve in Southwest Asia in connection with Operation Iraqi Freedom)

At the appropriate place, insert the following:

SEC. ___. (a) FINDINGS.—Congress makes the following findings:

(1) According to President George W. Bush, Operation Iraqi Freedom was ''fought for the cause of liberty, and for the peace of the world . . .'' and ''to free a nation by breaking a dangerous and aggressive regime''.

(2) The military victory in Iraq has been characterized by President George W. Bush as one of the ''swiftest advances in heavy arms in history''.

(3) There are more than 130,000 Soldiers, Sailors, Airmen, and Marines of the United States serving in the Iraqi Theater of Operations, far from family and friends, and for an unknown duration.

(4) Since the beginning of Operation Iraqi Freedom, almost 300 members of the Armed Forces of the United States have died in Iraq and nearly 1,500 have been wounded in action.

(5) Congress has authorized and Presidents have issued specific decorations recognizing the sacrifice and service of the members of the Armed Forces of the United States in the Korean War, the Vietnam conflict, and the liberation of Kuwait.

(6) Current Department of Defense guidance authorizes the award of only one expeditionary medal for overseas duty in Afghanistan, the Philippines, and Iraq.

(7) The conflict in Iraq is significant enough in scope and sacrifice to warrant a specific military decoration for the liberation of Iraq.

(b) AUTHORIZATION OF AWARD OF CAMPAIGN MEDAL.—The Secretary concerned may award a campaign medal of appropriate design, with ribbons and appurtenances, to any person who serves in any capacity with the Armed Forces in the Southwest Asia region in connection with Operation Iraqi Freedom.

(c) NAME OF MEDAL.—The campaign medal authorized by subsection (b) shall be known as the ''Iraqi Liberation Medal''.

(d) PROHIBITION ON CONCURRENT AWARD OF GLOBAL WAR ON TERRORISM EXPEDITIONARY

MEDAL.—A person who is awarded the campaign medal authorized by subsection (b) for service described in that subsection may not also be awarded the Global War on Terrorism Expeditionary Medal for that service.

(e) OTHER LIMITATIONS.—The award of the campaign medal authorized by subsection (b) shall be subject to such limitations as the President may prescribe.

(f) REGULATIONS.—(1) Each Secretary concerned shall prescribe regulations on the award of the campaign medal authorized by subsection (b).

(2) The regulations prescribed under paragraph (1) shall not go into effect until approved by the Secretary of Defense.

(3) The Secretary of Defense shall ensure that the regulations prescribed under paragraph (1) are uniform, so far as practicable.

(g) SECRETARY CONCERNED DEFINED.—In this section, the term ''Secretary concerned'' means the following:

(1) The Secretary of the Army with respect to matters concerning members of the Army.

(2) The Secretary of the Navy with respect to matters concerning members of the Navy, Marine Corps, and Coast Guard when it is operating as a service in the Navy.

(3) The Secretary of the Air Force with respect to matters concerning members of the Air Force.

(4) The Secretary of Homeland Security with respect to matters concerning members of the Coast Guard when it is not operating as a service in the Navy.

Mr. BINGAMAN. Mr. President, I will not ask for the yeas and nays at this point. At an appropriate time, I will ask for the yeas and nays. It is important that the Senate go on record in support of the awarding of a medal of this type. I hope we can have a very strong vote on its behalf.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, I have been informed that the Department of Defense does not support the Bingaman amendment, the pending amendment No. 1830. It has bipartisan support.

Let me explain to the Senate why there is opposition from the Department. At the request of the Joint Chiefs of Staff, Presidential Executive Order 132–89, dated March 12, 2003, authorized global war on terrorism, Expeditionary and Service Medals for members of the United States Armed Forces who have served in military expeditions to combat terrorism around the world as defined by Department regulations on or after September 11, 2001.

This was created and tailored to recognize both combat and noncombat operations not just in a single campaign or country but worldwide. To be eligible for the Expeditionary Medal, service members must have served within the area of eligibility. However, initially approved operations for Expeditionary Medals are Operation Enduring Freedom and Operation Iraqi Freedom. Battle stars for the Expeditionary Medal are provided for service members who engaged in combat against the enemy in the area of eligibility. Because antiterrorism operations are global in nature, the area of eligibility for an approved operation may be deemed to be noncontiguous. The combatant commander has authority to award medals for personnel deployed within his or her theater. There is a separate medal called the Service Medal that provides commanders the flexibility of recognizing supporting personnel and will not be restricted by geographical boundaries. Unlike the Expeditionary Medal, the Service Medal includes not only support for Operation Enduring Freedom and Operation Iraqi Freedom but also Operation Noble Eagle and airport security operations from September 27, 2001, to May 1, 2002.

The Department urges against the establishment of an Iraqi Freedom Medal for two reasons. First, it is redundant with the global war on terrorism medal in its purpose. Second, it is divisive in that it values participation in Operation Iraqi Freedom as being more worthy of individual recognition than Operation Enduring Freedom. In other words, there are people who have served in Afghanistan and Iraq, there are people who have served in Afghanistan and not Iraq, and Iraq and not Afghanistan.

The whole concept of this global war against terrorism is that there are also combatants in the Philippines and in Indonesia and other places throughout the world. I don't know how many there are, but I have been told some of the global war on terrorism medals have been awarded.

The problem about the Bingaman amendment is, what happens to those people who received those medals? Do they give them back? Do they also get an Iraqi medal of freedom? What happens to the people from Afghanistan? As I understand it, I could be wrong, but it covers only the Iraqi liberation medal.

Mr. REID. That is true.

Mr. STEVENS. But not Afghanistan.

So the best advice I can give the Senate is this: If the Senator from New Mexico wishes a vote, I certainly will not oppose that and will join in requesting a vote. However, I will say no matter what happens here, whether the Senate approves or disapproves, the subject matter will have to be dealt with in conference because it is a matter that has been raised, and it is of great significance.

I talk too much about my own service in World War II, which was sort of insignificant, but I got a CBI medal—China, Burma, India—but I spent only a day or two in India and an hour or two in Burma. We all thought we should have had a China medal, but the powers that be gave us a China-Burma-India medal. The powers that be right now are the Joint Chiefs of Staff. This is not a political issue is what I am trying to tell the Senate. This is an issue that arose out of an initiative from the Joint Chiefs of Staff themselves, is what I understand.

They decided this current situation is so global in nature that people are moved from one area to the other in terms of expertise and need, that there ought to be a medal for the period we are in right now which is really a global war on terrorism, and as such I am inclined to support that concept. I will vote against the Bingaman amendment. But I have a feeling it will pass because I think everyone would like to be on record now of recognizing the need for medals.

That would be my last comment to the Senate. The Senator from Hawaii is not here, but I do remember on two occasions when I have been with him when he has raised the question with the members of the Joint Chiefs of Staff: Where are the medals?

People, as they come home from a combat such as we are involved in now, may or may not be eligible for the Purple Heart. The concept of these other medals, however, has not settled down yet. I think as our men and women in the Armed Services start coming home, they should be recognized for their service with something of distinction, such as the medal of the type we are talking about, either the Global War on Terrorism Medal or the Expeditionary Medal, or the Service Medal, whatever it is. As a matter of fact, if they have been there, I would give them all three. Redundancy is not a crime in terms of medals for service in uniform in combat, as far as I am concerned. But I do think it has to be sorted out. The people who already have the Global War on Terrorism Medal, who fought in Iraq, may want the Iraqi medal. On the other hand, people who fought in Afghanistan may very much want the Global War on Terrorism Medal. It is something I think really requires pretty cautious thought in the Department of Defense and the Senate. I intend to join in asking for a vote on the amendment at the proper time and hope we can vote on it right after the vote that is set at 2:30 today, and then move on with further business of the Senate.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the hour of 12:30 is fast approaching. I am wondering if we could enter into an agreement now that that vote occur immediately following the vote on genetic nondiscrimination?

Mr. STEVENS. Mr. President, I would so move and ask unanimous consent it be in order at this time to order the yeas and nays.

Mr. REID. And that Senator BINGAMAN have 2 minutes prior to the vote to speak on his amendment.

Mr. STEVENS. Mr. President, I would like 2 minutes on each side.

Mr. REID. Of course. With no amendments in order prior to the vote.

Mr. STEVENS. No other motions in order, and up or down on the amendment. But I would like 2 minutes for

the Senator from New Mexico and for myself, and the vote to occur after the already scheduled vote. I ask that it be in order to ask for the yeas and nays now.

The PRESIDING OFFICER. It is in order to request the yeas and nays.

Mr. STEVENS. I do request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Without objection, it is so ordered. The request is agreed to.

Mr. STEVENS. Mr. President, parliamentary inquiry. I understand the Senate will stand in recess at 12:30.

The PRESIDING OFFICER. Under the previous order, that is correct.

Mr. STEVENS. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the legislation pending before the Senate is the emergency supplemental bill dealing with Iraq; and that has to do with security: security for our troops, security in Iraq. But there are other issues of security that affect us in our country: issues of security that deal with protecting our homeland. We provide critically needed funds to try to prevent another terrorist attack on our soil.

So I was surprised, as I was traveling the other day, to hear the President talk about using Homeland Security assets to track down Americans who are traveling in Cuba illegally and punishing those Americans.

As you know, it is currently illegal for Americans to travel in Cuba, except by a license given by the U.S. Treasury Department. The fact is, though, that there are many Americans who do go to Cuba. Many go because they think it is their right as Americans to travel freely, and in many cases, they go because they are not aware that they are breaking any rules.

I believe the travel ban unfairly punishes American citizens. In an attempt to take a slap at Fidel Castro, it ends up restricting the right of American people to travel. Many of us here think that makes no sense at all.

When I heard the President describe his interest in having Homeland Security people track down American tourists traveling in Cuba, I thought I would come to the floor of the Senate, and talk about a grandmother named Joan Slote. As you can see from this picture, Joan is in her mid 70s. She is a Senior Olympian. She is a bicyclist. She bicycles all over the world. She is in her mid 70s. And she joined a bicycle tour of Cuba, with a cycling club from Canada. They bicycled in the country of Cuba for, I believe, 8 or 9 days.

Joan Slote came back to this country from Cuba, and later on she was off to Europe where she was on a bicycle tour. While she was in Europe, she learned her son had brain cancer, and she rushed back to the United States, and just stopped at her home for a minute, and then rushed down to be with her son and attended to her son, who later died of brain cancer.

When she finally came back to her home, apparently there was a letter waiting for some long while from the U.S. Treasury Department that said: Oh, by the way, you traveled to Cuba with a bicycle club from Canada, and that was illegal, and so we are administering a $7,630 fine.

So Joan Slote, this mid 70s grandmother—no threat to this country for sure—is one of those Americans who is now being punished by the U.S. Government for travel in Cuba.

Now, we have folks down at the Department of the Treasury in an organization called the Office of Foreign Assets Control, or OFAC for short—and that is the organization that is charged with tracking money to terrorist groups to protect our country. But instead of focusing on that critically important mission, OFAC officials are tracking retired grandmothers who are riding a bicycle in Cuba and try to slap them with a big fine.

And now the President says: Oh, by the way, I would like to get more involved here. I want the Homeland Security Department tracking these people who are traveling to Cuba.

I thought our interest here in the Senate was to fund a Homeland Security agency to protect our country against the threats of terrorists, not to chase little old grandmothers who take a bicycle trip to Cuba.

Incidentally, OFAC finally negotiated with a $2,000 fine for Joan Slote. After I intervened, they said: All right, the $7,600 fine we will reduce to $2,000. So she sent them the money. But do you know what they did then? They sent a collection agency after her and told her they were going to begin to garnish her Social Security payments. Why? I do not have the foggiest idea. I guess it is just a bureaucratic mess.

But I was just thinking as I was driving down the road the other day, hearing President Bush say we have to get tough on Cuba, we are going to take Homeland Security people to go chase American tourists in Cuba.

The interesting thing is, Americans can travel virtually everywhere. You can travel to Communist China. Yes, that is a communist country. You can travel to Vietnam. Yes, that is a communist country. But you cannot travel to Cuba. And we are going to use Homeland Security assets—people, time, money—to go track down little old ladies who are bicycling in Cuba?

Are we really threatened by the poor guy who took the ashes of his dead father to Cuba, which was his father's last wish, to be sprinkled on the lawn by the church where he ministered in Cuba many years before?

Yes, they tracked that fellow down for taking his dad's ashes to Cuba. They fined him $7500.

It is story after story after story like this.

And now the President wants people in Homeland Security tracking Americans to punish Americans for traveling in Cuba.

What about homeland security? How about tracking terrorists? Let's track terrorists, not retired grandmothers who are riding bicycles.

Marshall McLuhan once said: I don't always believe everything I say. I thought to myself, that must surely have been the case in the White House when the President announced we are going to take Homeland Security Agency resources and start tracking American citizens so we can slap big fines on them for traveling into Cuba. This is preposterous. What on Earth can the President be thinking?

I have talked to Joan Slote. She is just one of many examples of ordinary U.S. citizens who meant absolutely no harm. I have talked to another retired grandmother from Wisconsin. She traveled to Cuba innocently and rode a bicycle as well. I have talked to many such folks. I held a hearing on this. I had people show up who described their travel to Cuba. They did not know it was illegal but—guess what—they have the Federal Government after them.

In an attempt to slap Fidel Castro, we are punishing American people. We are restricting the right of the American people to travel. And now the President gets into the act, which, I assume is about Florida politics, and says, oh, by the way, I want to divert Homeland Security assets to see if we can't get tougher on people like Joan Slote.

This issue involves wasted resources, that could and should be spent on real threats to our homeland security. Homeland security is about protecting this country from the threat of terrorists, not chasing senior citizens riding around on bicycles.

That is where the homeland security assets ought to be employed. That is where the Department of the Treasury assets ought to be employed, protecting our country from the threat of terrorist attacks, not chasing Joan Slote. My hope is that perhaps they will have another meeting at the White House and rethink this and finally do the right thing, at least meet some basic test of common sense.

I yield the floor.

RECESS

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

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH.)

GENETIC INFORMATION NONDISCRIMINATION ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, the Senate will resume

consideration of S. 1053, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1053) to prevent discrimination on the basis of genetic information with respect to health insurance and employment.

The PRESIDING OFFICER. Under the previous order, there will be 15 minutes of debate equally divided, followed by a vote on passage of the bill. Who yields time?

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I yield myself such time as I may consume.

This is important legislation. It has been 6 years in gestation. It is legislation which is not only important to our research community but, more importantly, it is a major piece of civil rights legislation in that it protects people in their employment and in getting health care.

Essentially, we are in a new world in the community of health care where you will actually be able to go to your doctor someday not too long from now, and probably in some instances even today, and he will be able to tell you some of the most severe illnesses projected for your lifetime. That is called genetic information. It is great medical news that we have moved this far, and there is a lot that will occur that is positive as a result.

The other side of the coin is this information could be used arbitrarily, unsuspectingly, or even intentionally to harm your employment or your capacity to get health insurance. This legislation corrects that concern. It makes it possible to continue genetics research without people having to be concerned about the way their personal genetics information may be used. That is why it is important.

A lot of folks have worked very hard on this bill. Senator KENNEDY has worked tirelessly to pass it. Senator DASCHLE has worked aggressively to pass it. Senator JEFFORDS, when he was chairman of the committee, worked very hard.

On our side of the aisle, Senator ENZI has made a major contribution in the area of employment, and Senator SNOWE was one of the originators of the initiative.

At this point, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see one of the primary sponsors, the Senator from Maine. I will withhold and make comments when she finishes.

Mr. GREGG. I yield 3 minutes to the Senator from Maine.

Ms. SNOWE. I thank the Senator from New Hampshire, chairman of the committee, whose guidance throughout this process ultimately culminated in this most significant piece of legislation. I express my appreciation to him and to the Senate majority leader, without whose leadership this legislation would not be possible, and to the Democratic leader as well, and to Senator KENNEDY, Senator ENZI, and, of course, Senator JEFFORDS, who sponsored this effort with me some 7 to 8 years ago. I also acknowledge the presence of Representative SLAUGHTER from New York who has led the effort in the House for approximately 8 years at this point.

This is the culmination of bipartisan efforts over the last 8 years and over the last 2 years of bipartisan negotiations where we were able to merge the differences between the legislation that I introduced and that was introduced by Senators DASCHLE and KENNEDY.

The fact is, since April of 1996, when I first introduced the Genetic Nondiscrimination Health Insurance Act, science has continued to hurdle forward, further opening the door to early detection and medical intervention through the discovery and identification of specific genes linked to diseases such as breast cancer, colon cancer, cystic fibrosis, and Huntington's disease. That 1996 legislation recognized that with the progress in the field of genetics accelerating at a breathtaking pace, we needed to ensure that with the scientific advances to come, we would advance the treatment and prevention of disease without advancing a new basis for discrimination.

Certainly everything changed with the unveiling of the first working draft of our entire genetic code. It became all the more imperative that we respond with legislation that would at once allow the tremendous promise of this breakthrough while at the same time protect the American people from the dark side of discrimination.

Because there has been so many other scientific advancements this carried with it, not only the prospect of scientific and medical discoveries, such as improved detection and earlier intervention, but also the potential for harm and abuse, every day since—absent enactment of this type of legislation—has been a day we have left the full potential of the human genome untapped.

This is no solution in search of a problem. To the contrary, the very real fear of repercussions from one's genetic makeup was specifically brought home to me through the real-life experience of one of my constituents, Bonnie Lee Tucker. Bonnie wrote to me about the fear of having the BRCA test for breast cancer. She was in a family who had nine members with breast cancer. She herself is a survivor. She feared having the BRCA test because she worried it would ruin her daughter's ability to obtain health insurance in the future.

I ask that everybody support this legislation because, clearly, this is one of the most significant groundbreaking pieces of legislation we could have in the area of medical health care.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I yield myself 2½ minutes.

First, I thank my colleague and friend, the chairman of the committee, Senator GREGG, for prioritizing this issue. It is a matter of enormous importance. I thank him and I thank Senator SNOWE, who has been a leader on this issue for a number of years. This has truly been a bipartisan effort. I also thank our majority leader, Senator FRIST, also a doctor, who understands this issue and has been very cooperative; Senator ENZI, who chairs a subcommittee in this area of policy, has helped to advance this program. We are grateful for the strong bipartisanship. I wish to recognize Congresswoman SLAUGHTER, who initiated the original legislation, and today we pay tribute to her.

Also, I thank our Democratic leader, TOM DASCHLE, who, in 1997, was the first person to introduce the comprehensive genetic discrimination program. Our friend, Senator JEFFORDS, has been an advocate for the elimination of genetic discrimination; TOM HARKIN and CHRIS DODD have been tireless advocates to make sure we got to this particular day.

I am going to yield time to Senator HARKIN in a minute.

In 1964, this Nation passed the important civil rights legislation to ban discrimination in our society in employment and public accommodations, among other things. Then in 1965 we banned discrimination in voting. Then, in 1968, we passed legislation to ban discrimination in housing. Then, under the leadership of my friend from Iowa, in 1990, the Americans with Disabilities Act passed to ban discrimination on the basis of disability. We have also done much to eliminate discrimination on ethnicity, on national origin, and we have made enormous progress in discrimination on gender. We still have not made enough progress on discrimination regarding gay and lesbian issues. Today, we are continuing the march toward equality in the United States, understanding the importance of eliminating discrimination based upon an individual's genetic makeup, in terms of insurance and in terms of employment. We are doing it in a way that is going to guarantee real remedies. This is not just legislation that will be out there and say we are against this form of discrimination; we are providing real remedies. From now on, individuals will know that no matter what their genetic makeup or susceptibility to genetic disease, they may not be discriminated against in the job place or in the provision of health insurance.

This is a major continuing step toward greater equality and the elimination of bigotry and discrimination in our society. It is an important day in the Senate. I commend all of those and the staff for all they have done so well to make it possible.

I yield 3½ minutes to the Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator from Massachusetts for the time. I join with him and others in thanking our leaders for bringing this

bill forward. I congratulate Senator GREGG, chairman of our committee, Senator KENNEDY, ranking member on our side, Senator SNOWE, and all the other Senators they have mentioned, who have worked so hard to get us to this point. Again, I thank the leadership for the vote today.

I was present sort of at the gestation period and finally the birth of the mapping and sequencing of the human genome. What a magnificent step forward this was in terms of our understanding of the underlying basis for many of our diseases and illnesses. This feat of sequencing and mapping of the 3.1 billion base pairs of the human genome, sometimes called ''the book of life,'' opens up a world of possibilities for preventing and curing disease. New genetic tests take the concept of early detection and treatment of disease to levels that were previously only imagined but are now scientifically possible. Discoveries have been made about the genetic basis of many diseases, such as heart disease, diabetes, Parkinson's disease, and asthma. Tests are already available for breast cancer, ovarian cancer, colon cancer, and several other diseases.

But while the potential medical and health benefits of this new technology seem limitless, they cannot be pursued without caution and safeguards against abuse, such as discrimination by health insurers or employers. The Genetic Information Nondiscrimination Act, before us now, addresses these possible abuses. It establishes protections against discrimination based upon genetic information both in health insurance and employment. It is a gigantic step forward, as Senator KENNEDY said, in making sure people are not discriminated against simply because of what their genes are.

While this bill doesn't include everything I believe it should have included, it is a significant step forward for the American people and for our health care system. Under this bill, individuals will finally be protected from discrimination by health insurers or employers based on genetic makeup. Everybody will have the peace of mind to seek answers to questions about themselves without fear of losing their health insurance or their job.

I commend those leaders who have brought this forward and yield back whatever time I may have remaining.

Mr. ENZI. Mr. President, 50 years ago James Watson and Francis Crick discovered the structure of the DNA molecule—the blueprint of life. Their discovery laid the foundation for predicting and treating the hereditary diseases that threaten us.

The completion of the Human Genome Project in April 2003 was a significant step towards this goal. Because of the work of these scientists, we now are able to decipher the exact sequence of the genetic code. This knowledge will allow earlier detection and more effective treatment of genetic illnesses.

However, genetic information brings challenges along with promise. The Genetic Information Nondiscrimination Act will ensure that the promise of genetic information is not hindered by fears about its misuse. This legislation will protect individuals from discrimination in health insurance and employment on the basis of genetic information.

I thank my colleagues on both sides of the aisle for crafting a bill that fairly and effectively protects people against genetic discrimination. In doing so, we have been mindful of existing discrimination and privacy laws and regulations. While the issue is complex, our objective is clear: to encourage people to seek genetic services by reducing fears about the misuse or unwarranted disclosure of genetic information.

Today, we mark the 50th anniversary of Watson and Crick's historic discovery with the passage of the Genetic Information Nondiscrimination Act. With each new advance in genetic science, the significance of this legislation grows. By allaying fears about genetic discrimination in health insurance and in the workplace, this legislation will save lives now and in generations yet to come.

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

● Mr. KERRY. Mr. President, it is high time we have a strong genetic information protection law on the books. The Senate bill I am voicing support for today is a step in the right direction. However, while I am pleased to join a bipartisan effort to pass S. 1053, the Genetics Information Nondiscrimination Act, I hold out hope that the enforcement provisions in the bill can be strengthened prior to final passage. The House of Representatives will soon be conducting hearings on the unanimously-passed Senate legislation and will be working to craft their own version of the law. I sincerely hope that the House works to strengthen—not weaken the bill. One area where the bill can be strengthened is to give some real teeth to the enforcement protections. If our goal of limiting discrimination based on genetic information is to be realized, we must work to ensure that those whom we seek to protect can truly use this law to guard against discriminatory actions.●

Mr. DODD. Mr. President, over the past decade, the science of genetics has developed at an astonishing pace. The mapping of the human genome is undoubtedly one of the greatest scientific achievements of my lifetime. We have not even completely grasped the wide array of potential benefits that may come from our newfound genetic knowledge. Certainly, the impact on our health will be profound. Doctors will be able to read our unique genetic blueprints and predict the likelihood of developing diseases such as cancer, Alzheimer's, or Parkinson's. They will also be able to use an individual's genetic information to develop treatments for these same diseases and target individuals with the treatment that will work best for them. This is not science fiction—it is already beginning to happen.

For all the promise of the genetic age, there is also an inherent threat. Science has outpaced the law and Americans are worried, and rightly so, that their genetic information will be used, not to improve their health, but to deny them health insurance or employment. There is no information more personal and private than genetic information and no information more worthy of special protection. Our genetic code is the very blueprint of ourselves. It is with us from birth, and to some extent it determines who we will become. What an incredibly powerful tool, with its vast potential to help us live healthier lives. But the nature of genetic information also makes it dangerous to the individual if used incorrectly.

This is why so many of us, on both sides of the aisle, saw the need several years ago for legally enforceable rules to maximize the potential benefits of genetic information and minimize its potential dangers. The legislation before use represents a culmination of the efforts of many of us to establish such rules. It represents an enormous step forward, and I wish to acknowledge the hard work of everyone who was involved in crafting this legislation.

This bill provides significant new protections against the misuse of genetic information. It ensures that Americans who are genetically predisposed to health conditions will not lose or be denied health insurance, jobs, or promotions based on their genetic makeup. Reaching an agreement on this legislation means that our laws dealing with genetic information can begin to catch up to the reality of our technological capability in the field.

With these protections in place, individuals need not feel reluctant to get the tests that may save or improve their lives. Although the Americans with Disabilities Act, ADA, and the Health Insurance Portability and Accountability Act, HIPAA, took important steps towards preventing genetic discrimination, this legislation is more specifically tailored to prohibiting its misuse. Health plans and health insurance issuers will not be allowed to underwrite, determine premiums, or decide on eligibility for enrollment based on genetic information. Employers will not be allowed to alter hiring practices based on genetic information. The American public can feel secure in the knowledge that their genetic blueprint will not be used to harm them, that a genetic marker indicating a possible illness later in life will not cause them to lose a job or health insurance.

This is by no means a perfect or complete bill. In particular, while it poses some important limitations on the collection of personal genetic information

by insurance companies, it would allow them to collect this information, without consent, once an individual is enrolled in a health plan. While insurers are expressly prohibited from using this information for the purposes of underwriting, I am concerned that once they have this information, it may be difficult to control how it is used and who has access to it. We all know from experience that the difficulty of protecting information increases exponentially with each additional person who has access to that information.

Let me add that, during negotiations, good faith attempts were made on both sides to address these concerns. Unfortunately, we could not reach an agreement on this issue that made all parties comfortable. As a result, the bill falls short of offering comprehensive privacy protection. Personal genetic information is already widely available, and the risk of abuse is high. Health plans and employers will have legitimate reasons for collecting genetic information. But individuals should be given the power to regulate how such information is distributed, and with whom it is shared. As this bill becomes law, and I sincerely hope it will, I will monitor closely how it is implemented, and the extent to which privacy is protected. We may need to revisit this issue in the future.

Despite this shortcoming, I support this bill, as it represents a vast improvement over current law in many ways. I hope that it will become law in the very near future. We all should feel free to make our health care decisions based on our health care needs, not based on fear. Today, we are close to making that goal a reality.

Mrs. CLINTON. Mr. President, S. 1053 has the laudatory goal of prohibiting genetic discrimination. Genetic discrimination has many victims, and their stories are wrenching. There are those who cannot get coverage, as well those who lost job opportunities. But I want to make sure we don't forget another category of victims—those who forego important tests out of fear that they will be victimized. According to a recent JAMA article, 57 percent of patients at risk for breast and ovarian cancer declined a needed genetic test that could have guided prevention and treatment interventions. That is why our goal should have been jot just to pass a bill, but to pass a credible bill so that people have enough confidence in our work to go our and get the health services they need.

Unfortunately, I am concerned that the enforcement provisions of S. 1053, particularly in health insurance, are not strong enough to accomplish the legislation's goal.

Our Nation has made significant investments in genetic research. This research could one day lead to cures or preventions for diseases such as cancer. This investment in genetic research will prove futile if the result is not better health care. Individuals must participate in genetic research if this Nation is to reap the rewards of our investment and individuals must have confidence in the results of genetic research in order to address their personal health issues. However, as genetic information is increasingly revealed, great harm can occur. As President Bush acknowledged in his June 23, 2001 radio address:

> This knowledge of the code of life has the potential to be abused. Employers could be tempted to deny a job based on a person's genetic profile. Insurance companies might use that information to deny an application for coverage, or charge excessive premiums.

Americans have already shown that they will not fully participate in genetic research or take advantage of genetic technologies until they believe that they are protected against genetic discrimination in health insurance and employment. Without protection, patients fear disclosing their family history, yet this hesitancy may impact the care that they and their families receive.

As you recognize, genetic information is uniquely personal information. It is fundamentally different from other medical information. Because genetic information can be used against an individual and an entire family, it enables a new form of discrimination. It deserves strong enforcement and should not be treated the same as other information in a medical record.

In order for S. 1053 to achieve its purpose, individuals must have confidence in its enforceability. That confidence will be difficult to instill without mechanisms such as access to a court or comparable forum to seek redress for violations of the statute. In addition, it is important that the public feel confident that violations are unlikely. This reassurance can only come from legislating strong enforcement and deterrence mechanisms. I would have liked to see the enforcement mechanisms and remedies in S. 1053 strengthened to provide for compensation for economic and non-economic damages and strong punitive provisions. If there is no redress for individual harm and if nominal fees are the only accountability mechanism in place, there is little to deter health insurers and employers from using genetic information in violation of the law.

However, I believe that this bill does make a start in the direction of supporting the principle that advances in science should help move civilization forward, not to reverse our progress. Discrimination based on genetic information would be a step backward for civil rights and human dignity. That is why I support action today to begin addressing this issue, and hope that in the future we will reinforce today's action with improvements to secure justice and civil rights for all Americans.

Mr. JEFFORDS. Mr. President, today's consideration of S. 1053, the Genetic Information Nondiscrimination Act, is the result of almost 6 years of effort, so I am especially pleased that we are here today to consider and pass this bipartisan legislation. For the first time, S. 1053 will prohibit discrimination against individuals based on their genetic make-up in both health insurance and employment. This legislation represents a major contribution to civil rights law. It is a victory for consumers, health insurers and health care providers; and it is a victory for employees and employers.

The issue of genetic nondiscrimination has concerned me for many years, and I have been pleased to work with many members of the Senate to craft this legislation. The measure we are considering today is the result of many years of effort and the contributions of many individuals. It is an example of the progress that can be made when the Senate seeks to negotiate and compromise on a bipartisan basis.

Together with the much deserved excitement over the potential of genetic research there have also been long standing concerns that genetic information, in the wrong hands, could be misused. Many people have argued that an individual's genetic information—that might indicate a predisposition to a particular disease—could be used to deny that individual health insurance or employment opportunities. The promise of better health would instead become a potential for greater discrimination and disadvantage. The Genetic Information Nondiscrimination Act of 2003 is designed to address those concerns.

Existing antidiscrimination law has been enacted over the years as a means of correcting long-standing abuses in voter rights, employment, housing and education. But under current law a person who has suffered employment or health insurance discrimination because of their genetic makeup has very little, if any, recourse to legal remedies. This legislation addresses this problem by creating new enforceable rights for individuals similar to those available under existing civil rights, education and fair employment law.

It is important to note that to date, there has not been a pattern or clear prevalence of genetic discrimination. But there is anecdotal evidence that people have refused to take genetic tests because of their fear that the predictive information would lead to discrimination. We know the science is rapidly moving forward and we are learning more every day about the ''predictive'' correlation between genetic markers and certain diseases. It is not difficult to imagine such discrimination occurring in the near future. So in a sense, we can take that rare opportunity to be ahead of the curve and enact legislation to preempt discriminatory practices and prevent them from ever happening.

I believe the compromise legislation we consider today will be successful in preventing abuses in the insuring of health services and employment. However, we must remain vigilant against this type of discrimination from ever

getting a foothold in our society and if this measure proves insufficient and needs to be strengthened then we will be back and that effort will have my support.

There are many Members who have played a significant role in bringing together two different, though similar bills. My friend, Senator SNOWE, led one effort in which I was proud to join together with Senators FRIST, ENZI, COLLINS, and HAGEL. In another effort, Senator DASCHLE was joined by Senators KENNEDY, DODD, and HARKIN. That measure focused attention on the need for employment provisions and contributed to a better understanding of the many critical and complex definitions. Finally, I want to salute Senator GREGG, who as chairman of the HELP Committee devoted his energies to finding a middle ground that has made this legislation possible.

I am pleased at the willingness both sides have shown to work through the many difficult aspects of this key issue. Through many meetings and discussions we have been able to reach agreements on many important issues, and improve the legislation. I look forward to continuing this cooperative approach as we move to enact this important and landmark initiative and I urge our colleagues in the House to pass it as well. This legislation is supported by the President and it is my hope that we can enact it into law before the end of this Congress. I urge all of our colleagues to vote in its favor.

Mr. CORZINE. Mr. President, I am pleased that today the Senate is considering legislation designed to prohibit discrimination in health insurance and employment based on genetic information.

In the last decade, biomedical researchers have made great strides in genetic research. While these discoveries are critical to researching treatments and, ultimately, discovering cures for many diseases, this information also has the potential to be used to deny health care insurance or employment to an individual who has a genetic predisposition to an illness. That is why we must make it illegal for employers and health insurers to discriminate against individuals on the basis of their genetic information.

S. 1053 is an important step, but it is only a first step. Any legislation addressing this issue must include strong enforcement and deterrence mechanisms. As this legislation moves forward, I hope its enforcement provisions will be strengthened. Without strong accountability provisions, there is little to deter employers and health insurers from using genetic information inappropriately.

In addition, I hope that when this legislation is conferenced, the conferees will find ways to strengthen the privacy provisions. It is essential that our laws keep pace with technological advances and that we continue to protect the privacy of our citizens. Advances in technology cannot place fundamental American rights at risk.

Despite my concerns about the enforcement and privacy provisions, I believe this legislation is a critical first step and look forward to working with my colleagues to continue addressing the important issue of genetic discrimination.

Mr. SCHUMER. Mr. President, today, the Senate came together to pass S. 1053, the Genetic Information Nondiscrimination Act. I cast my vote in favor of this bill because I think it takes an important first step in the right direction. It is my view, however, that the bill does not go far enough. I commend my colleagues for their efforts to craft a bipartisan compromise, but I have serious concerns that the final bill does not include adequate enforcement provisions.

The Genetic Information Nondiscrimination Act prevents employers and insurance companies from treating individuals differently because of their genetic predispositions. It stops a health insurance company, for example, from charging an individual a higher premium because her mother had breast cancer.

S. 1053 does not, however, have adequate enforcement provisions. There is no recourse for individuals who feel that their rights under the law have been violated. There is no opportunity for a person to hold his employer accountable for genetic discrimination in a court of law. The current accountability provisions, which consist of nominal fees, are not sufficient in order to protect individuals who have been treated unfairly because of a genetic predisposition.

Therefore, I voted for this bill with some reluctance. I was very pleased to see this issue addressed in the Senate, but concerned that the language of the bill does not adequately protect the people for whom it was written. I hope that there will be opportunities in the future to strengthen this bill and ensure the rights of victims of genetic discrimination.

Mr. DOMENICI. Mr. President, I rise today in support of the Genetic Information Nondiscrimination Act of 2003, a bill that will prohibit discrimination based on genetic information with respect to employment and health insurance. This bill represents much cooperation on the part of my colleagues, and I want to recognize Senators SNOWE, FRIST, JEFFORDS, DASCHLE, KENNEDY, and also HELP Committee Chairman GREGG, for all the hard work done on this important issue.

I am extremely pleased with today's passage of the Genetic Information Nondiscrimination Act, as it marks a great milestone for those of us involved in the Human Genome Project. It seems only a short time ago that the Human Genome Project was created as a joint effort between the Department of Energy and the National Institutes of Health. What progress we have made.

In the last two years, there have been many events celebrating the completion of maps of the human genome. The genome map has brought a promise of improved health through revolutionary new treatments for illness and disease. The ultimate result of mapping the human genome is a complete genetic blueprint, a blueprint containing the most personal and most private information that any human being can have. We will now have a wealth of knowledge of how our countless individual traits are determined. And perhaps more important, we will have fundamental knowledge about the genes that can cause sickness and sometimes even death.

Our personal and unique genetic information is the essence of our individuality. Our genetic blueprint is unique in each of us. However, as genetic testing becomes a more frequently used tool, we now must begin to address the ethical and legal issues regarding discrimination on the basis of genetic information. Questions regarding privacy and confidentiality, ownership and control, and consent for disclosure and use of genetic information need to be carefully considered.

An unintended consequence of this new scientific revolution is the abuses that have arisen as a result of our gathering genetic information. Healthy people are being denied employment or health insurance because of their genetic information. By addressing the issue of nondiscrimination, we are affirming the right of an individual to have a measure of control over his or her personal genetic information.

Genetic information only indicates a potential susceptibility to future illness. In fact, many individuals identified as having a hereditary condition are, indeed, healthy. Some people who test positive for genetic mutations associated with certain conditions may never develop those conditions at all. Genetic information does not necessarily diagnose disease; yet, many people in our society have been discriminated against because other people had access to information about their genes, and made determinations based on this information that the individual was too risky to insure or unsafe to employ.

While the issue is complex, our objective is clear; people should be encouraged to seek genetic services and they should not fear its discriminatory use or disclosure. The Genetic Information Nondiscrimination Act is an important first step towards protecting access for all Americans to employment and health services regardless of their genetic inheritance. There is simply no place in the health insurance or employment sector for discrimination based solely upon genetic information.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has a minute and a half.

Mr. KENNEDY. I yield myself the remaining time.

I ask unanimous consent that a statement of the administration's policy be printed in the RECORD.

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

STATEMENT OF ADMINISTRATION POLICY

The Administration is committed to enactment of legislation to prohibit genetic discrimination in health insurance and employment. The Administration supports S. 1053, which would bar health insurers from denying coverage to a healthy individual or charging the person higher premiums based solely on a genetic predisposition to developing a disease in the future. The bill also would prohibit employers from using individuals' genetic information when making hiring, firing, job placement, or promotion decisions.

The Administration wants to work with the Congress to ensure that individuals can be certain that they are protected against the improper use of genetic information. Unwarranted use of genetic information, and the fear of potential discrimination, threatens both society's ability to use new genetic technologies to improve human health and the ability to conduct the very research needed to understand, treat, and prevent diseases. Enactment of Federal legislation will help guarantee that the Nation fully realizes the potential of ongoing advances in genetic sciences.

Mr. KENNEDY. Mr. President, it is important to know that President Bush, in 1997, while the governor of Texas, signed a law prohibiting genetic discrimination. He also went to the Nation in a radio address on June 23, 2001 and supported the elements included in this law. We have a very strong Statement of Administration Policy in support of this program.

We thank the President for his strong support and we will work with our Republicans friends to try to make sure this message goes to the House of Representatives and that they respond in a similar way.

I hope we will have an overwhelming vote in the Senate today. It is one of the most important bills we will consider this Congress.

I yield back my time.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I thank the Senator from Massachusetts for his aggressive and effective leadership on this issue. I also thank the Democratic leader, who played a major role in this, Senator HARKIN, who has been working on this issue for many years, and, of course, Senator FRIST, also, because he has made this a priority and that is why we are on the floor. This is an issue in which he obviously has a personal interest, with his medical background.

We should also thank one of the groups that really energized this initiative of making lives better through developing the human genome and that is the folks at NIH, led by Dr. Francis Collins. They are the ones who are going to take this knowledge and disseminate it in a way that makes it available to the health community generally and, as a result, improve the lives of literally millions of Americans and potentially tens of millions of people around the world.

This is truly an extraordinary breakthrough in science, but it is important that it be used right and it is important that it not be used in a way that may harm individuals' economic well-being or their capacity to get health insurance. That is why this legislation, at the beginning, is so important. By having it in place, we will be able to energize even more research and more use of the genetic information that is available through science today.

Mr. President, I believe we are ready to vote. I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I ask unanimous consent to proceed for 10 seconds.

The PRESIDING OFFICER. The Senator has time remaining.

Mr. KENNEDY. I also thank Judy Lichtman, who is president of the Coalition for Genetic Fairness. I wanted to mention her name on the floor. She did a great deal of work, as well as the coalition. We are prepared to vote.

Mr. DASCHLE. Mr. President, a half-century ago, Drs. Francis Crick and James Watson discovered the structure of DNA—a revolutionary breakthrough that enabled scientists to begin unraveling the mysteries of human life and diseases.

Earlier this year, scientists at the National Human Genome Research Institute celebrated the completion of a massive undertaking begun 10 years earlier to map the entire human genetic code.

Our new knowledge about our genetic blueprint has the potential to dramatically improve our health and the quality of our lives. It also has the potential to destroy lives. Which of those two potentials becomes reality depends on whether and how well our laws keep pace with changes in technology.

We know from hearings we held in the Senate that current laws are inadequate to protect Americans from genetic discrimination. We also know that today Americans are not being tested, not taking advantage of medical advances, and not participating in genetic research because of their fear of discrimination. Their fears, unfortunately, are not unfounded.

Almost 2 years ago, I met a man named Dave Escher. Mr. Escher had worked for the same company for more than 25 years and was a good employee. One day, Mr. Escher was told by his employer that he needed to see a company doctor; if he refused, he was told he could lose his job. So Dave Escher saw the doctor.

However, it wasn't until after the doctor's appointment—and only by accident—that Mr. Escher learned that the company's doctors had used his blood to conduct genetic tests for more than 20 medical conditions.

Stories like Mr. Escher's may be relatively rare today, but experts tell us that is largely because genetic testing itself is still relatively rare, and because many people are choosing not to take genetic tests. As testing becomes more affordable and more common, experts say, the incidence of discrimination is likely to increase dramatically unless we act to prevent such discrimination.

Almost two centuries ago, Thomas Jefferson, one of this country's foremost scientists and original thinkers, wrote that ''laws and institutions must go hand in hand with the progress of the human mind. As . . . new discoveries are made [and] new truths disclosed . . . institutions must advance also, and keep pace with the times.''

In this age of genetic breakthroughs, it is essential that our laws catch up with the science. We can't afford to take one step forward in science but two steps backward in civil rights. Our laws must specify, clearly and unambiguously, how genetic information may be used and how it may not be used.

Today, after years of discussion and negotiation, the Senate is finally poised to pass bipartisan legislation to protect all Americans against the misuse and abuse of genetic information.

Our bill does three things:

No. 1, it forbids health insurers from discriminating against individuals—denying them coverage, for instance, based on genetic text results.

No. 2, it forbids employers from using genetic information to discriminate in hiring, or in the terms and conditions of employment.

No. 3, it sets privacy standards for access and disclosure of genetic information.

Genetic information should be a private matter—period. It should not be shared with employers or insurance companies without an individual's consent.

For years, experts have urged Congress to pass comprehensive national standards to protect all Americans from genetic discrimination. If we fail to do so, the experts warn, we will almost certainly squander many of the enormous potential benefits of the genetic revolution.

We have been trying to heed that warning for years. I first introduced legislation prohibiting genetic discrimination 6 years ago. Senator SNOWE and many other Senators on both sides of the aisle have been working on this important issue for just as long. After countless hours of tough negotiations, we have finally arrived at a fair resolution that provides important protections for individuals in both employment and health insurance.

Passage of this bill represents a victory for bipartisanship. But more importantly, it is a victory for the American people. Discrimination based on genetic information is just as arbitrary, just as unacceptable, and just as un-American as discrimination based on gender, race, religion, or disability. Like those other forms of discrimination, it should not be allowed in this country.

Again, I thank our colleagues who have enabled us to reach this compromise and I urge all of our colleagues to support it.

There are a few people who deserve special recognition. I particularly want to thank those Senators who have been working on this issue from the beginning and whose contributions were invaluable in reaching this compromise, especially Senators SNOWE, KENNEDY, HARKIN, DODD, JEFFORDS, FRIST, GREGG, and ENZI.

I also want to thank Dr. Francis Collins and the staff at NIH, as well as Kathy Hudson, who heads up the Genetics and Public Policy Center at Johns Hopkins University. Without their technical expertise and their determinations to help our laws keep pace with science, we would not be here today.

One other person who must be recognized is our good friend in the other body, Congresswoman LOUISE SLAUGHTER. Her determined leadership helped move us forward at every step of the way, and her tenacity and expertise will be essential to passage of this legislation in the House.

Nearly 2½ years ago, in one of his weekly radio addresses, President Bush joined in the call for comprehensive protection of genetic information. I urge all of our colleagues in the Senate to support this well-crafted, bipartisan solution. I also hope that our friends in the House will heed the President's words, follow this Senate's actions, and pass this bill quickly so we can get it to the President for his signature this year.

We cannot allow the gap between science and the law to continue to widen. We all have genetic markers. We are all potentially at risk of genetic discrimination. This is not a partisan issue. This is an urgent civil rights issue. There is no reason to wait any longer. We have a solution. We ought to pass it this year.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, we are about to vote on legislation that will provide important new protections against employment and health insurance discrimination based on genetic profiling. The bill protects Americans from both disease and discrimination.

We have been working on this legislation for many years, and I am pleased today that the Senate is about to act. I expect that today the Senate will overwhelmingly pass the genetic information nondiscrimination bill.

I especially, commend my colleagues Senators SNOWE, GREGG, JEFFORDS, DASCHLE, KENNEDY, ENZI, HAGEL, COLLINS and DEWINE for their hard work and dedication over many years.

Since we began looking at the issue of genetic discrimination, genetic scholarship has advanced by leaps and bounds. This year, scientists, working in collaboration with the National Human Genome Research Institute at the National Institutes of Health, published a final draft of the sequence of the entire human genetic code.

It's a dazzling accomplishment that makes possible unprecedented understanding of human development, health and disease. It has the potential to change the way we practice medicine.

Scientists will be able to design drugs to treat specific genes. Tissues and organs may be specifically engineered for use in transplantation. Preventive care may potentially be based in large part on genetic testing. But this new knowledge is also fraught with risk.

When I first joined Senator SNOWE to address the issue of genetic discrimination, almost one-third of women offered a test for breast cancer risk at the National Institutes of Health declined, citing concerns that health insurance companies would discriminate against them.

They were afraid that genetic information gathered to protect them from disease might end up hurting their chances to get insurance.

Their fears were understandable. Genetic screening is a powerful tool, and can impart highly sensitive and very personal information. The fear of genetic discrimination has the potential to prevent individuals from participating in research studies, from taking advantage of new genetic technologies, or even from discovering that they are not at high risk for genetically related illnesses.

As a doctor and a Senator, I believe protecting our fellow citizens from genetic discrimination is a moral and practical responsibility.

In the past, Congress has taken on the battle against discrimination, most notably through the landmark 1964 Civil Rights Act, the 1990 Americans with Disabilities Act, and the Health Insurance Portability and Accountability Act.

This legislation stands squarely on our time-tested civil rights laws, establishing comprehensive, consistent, and fair protections.

Genetic research will make thrilling advances possible in the not too distant future, including possible cures to our most vexing illnesses.

But as we greet the future with new technology and scientific discoveries, we must take care to protect our body politic from unintended and unanticipated consequences. I am pleased by the progress we have made thus far, and I congratulate each of my colleagues on their dedication to this issue.

I strongly support the passage of this bill. It will help protect Americans from both discrimination and disease.

Mr. President, this is a bill we have worked on for the last 7 years. It has allowed us to address an issue, the human genome and the definition of the code, in advance. Everything we thought back then I believe was right on target. It has taken a long time to get to where we are today. It has taken a lot of bipartisan work among Senators on both sides of the aisle who really came down to wanting to pass a bill that did two things; that is, protect the health and the future health of individuals in this country and, at the same time, protect from discrimination. This bill accomplishes that.

Again, I congratulate my colleagues for their leadership and persistence in passing this bill.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Under the previous order, the bill having been read the third time, the question is, Shall the bill, as amended, pass? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Minnesota (Mr. DAYTON), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 377 Leg.]

YEAS—95

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

NOT VOTING—5

Dayton	Kerry	Miller
Edwards	Lieberman	

The bill (S. 1053), as amended, was passed, as follows:

S. 1053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Genetic Information Nondiscrimination Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Deciphering the sequence of the human genome and other advances in genetics open major new opportunities for medical progress. New knowledge about the genetic basis of illness will allow for earlier detection of illnesses, often before symptoms have begun. Genetic testing can allow individuals to take steps to reduce the likelihood that they will contract a particular disorder. New knowledge about genetics may allow for the development of better therapies that are more effective against disease or have fewer side effects than current treatments. These advances give rise to the potential misuse of genetic information to discriminate in health insurance and employment.

(2) The early science of genetics became the basis of State laws that provided for the sterilization of persons having presumed genetic ''defects'' such as mental retardation, mental disease, epilepsy, blindness, and hearing loss, among other conditions. The first sterilization law was enacted in the State of Indiana in 1907. By 1981, a majority of States adopted sterilization laws to ''correct'' apparent genetic traits or tendencies. Many of these State laws have since been repealed, and many have been modified to include essential constitutional requirements of due process and equal protection. However, the current explosion in the science of genetics, and the history of sterilization laws by the States based on early genetic science, compels Congressional action in this area.

(3) Although genes are facially neutral markers, many genetic conditions and disorders are associated with particular racial and ethnic groups and gender. Because some genetic traits are most prevalent in particular groups, members of a particular group may be stigmatized or discriminated against as a result of that genetic information. This form of discrimination was evident in the 1970s, which saw the advent of programs to screen and identify carriers of sickle cell anemia, a disease which afflicts African-Americans. Once again, State legislatures began to enact discriminatory laws in the area, and in the early 1970s began mandating genetic screening of all African Americans for sickle cell anemia, leading to discrimination and unnecessary fear. To alleviate some of this stigma, Congress in 1972 passed the National Sickle Cell Anemia Control Act, which withholds Federal funding from States unless sickle cell testing is voluntary.

(4) Congress has been informed of examples of genetic discrimination in the workplace. These include the use of pre-employment genetic screening at Lawrence Berkeley Laboratory, which led to a court decision in favor of the employees in that case *Norman-Bloodsaw v. Lawrence Berkeley Laboratory* (135 F.3d 1260, 1269 (9th Cir. 1998)). Congress clearly has a compelling public interest in relieving the fear of discrimination and in prohibiting its actual practice in employment and health insurance.

(5) Federal law addressing genetic discrimination in health insurance and employment is incomplete in both the scope and depth of its protections. Moreover, while many States have enacted some type of genetic non-discrimination law, these laws vary widely with respect to their approach, application, and level of protection. Congress has collected substantial evidence that the American public and the medical community find the existing patchwork of State and Federal laws to be confusing and inadequate to protect them from discrimination. Therefore Federal legislation establishing a national and uniform basic standard is necessary to fully protect the public from discrimination and allay their concerns about the potential for discrimination, thereby allowing individuals to take advantage of genetic testing, technologies, research, and new therapies.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: ''except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 732(a).''.

(c) REMEDIES AND ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) ENFORCEMENT OF GENETIC NONDISCRIMINATION REQUIREMENTS.—

''(1) INJUNCTIVE RELIEF FOR IRREPARABLE HARM.—With respect to any violation of subsection (a)(1)(F), (b)(3), or (c) of section 702, a participant or beneficiary may seek relief under subsection 502(a)(1)(B) prior to the exhaustion of available administrative remedies under section 503 if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determinations that already have been made under section 503 in such case, or that are made in such case while an action under this paragraph is pending, shall be given due consideration by the court in any action under this subsection in such case.

''(2) EQUITABLE RELIEF FOR GENETIC NONDISCRIMINATION.—

''(A) REINSTATEMENT OF BENEFITS WHERE EQUITABLE RELIEF HAS BEEN AWARDED.—The recovery of benefits by a participant or beneficiary under a civil action under this section may include an administrative penalty under subparagraph (B) and the retroactive reinstatement of coverage under the plan involved to the date on which the participant or beneficiary was denied eligibility for coverage if—

''(i) the civil action was commenced under subsection (a)(1)(B); and

''(ii) the denial of coverage on which such civil action was based constitutes a violation of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) ADMINISTRATIVE PENALTY.—

''(i) IN GENERAL.—An administrator who fails to comply with the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702 with respect to a participant or beneficiary may, in an action commenced under subsection (a)(1)(B), be personally liable in the discretion of the court, for a penalty in the amount not more than $100 for each day in the noncompliance period.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of clause (i), the term 'noncompliance period' means the period—

''(I) beginning on the date that a failure described in clause (i) occurs; and

''(II) ending on the date that such failure is corrected.

''(iii) PAYMENT TO PARTICIPANT OR BENEFICIARY.—A penalty collected under this subparagraph shall be paid to the participant or beneficiary involved.

''(3) SECRETARIAL ENFORCEMENT AUTHORITY.—

''(A) GENERAL RULE.—The Secretary has the authority to impose a penalty on any failure of a group health plan to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed by subparagraph (A) shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(d) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(7) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(8) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(e) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(B) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended—

(i) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(ii) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(2) LIMITATIONS ON GENETIC TESTING.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 2721(a).''.

(3) REMEDIES AND ENFORCEMENT.—Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg–22)(b)) is amended by adding at the end the following:

''(3) ENFORCEMENT AUTHORITY RELATING TO GENETIC DISCRIMINATION.—

''(A) GENERAL RULE.—In the cases described in paragraph (1), notwithstanding the provisions of paragraph (2)(C), the following provisions shall apply with respect to an action under this subsection by the Secretary with respect to any failure of a health insurance issuer in connection with a group health plan, to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 2702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed under this paragraph shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(4) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(17) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(18) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

''SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.

''(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not establish rules for the eligibility (including continued eligibility) of any individual to enroll in individual health insurance coverage based on genetic information (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.''.

(2) REMEDIES AND ENFORCEMENT.—Section 2761(b) of the Public Health Service Act (42 U.S.C. 300gg–61)(b)) is amended to read as follows:

''(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2), and section 2722(b)(3) with respect to violations of genetic nondiscrimination provisions, in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.''.

(c) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking ''If the plan sponsor'' and inserting ''Except as provided in subparagraph (D), if the plan sponsor''; and

(2) by adding at the end the following:

''(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F) and (c) of section 2702 and the provisions of section 2702(b) to the extent that such provisions apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor and the Secretary of Health and Human Services (as the case may be) shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 18 months after the date of enactment of this title; and

(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 18 months after the date of enactment of this title.

SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 9802(b) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(d) GENETIC TESTING AND GENETIC SERVICES.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care

services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (d) shall apply to group health plans and health insurance issuers without regard to section 9831(a)(2).''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.

''(8) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(9) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of the Treasury shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

''(E)(i) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy, and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an eligible individual on the basis of genetic information concerning the individual (or information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

''(ii) For purposes of clause (i), the terms 'family member', 'genetic services', and 'genetic information' shall have the meanings given such terms in subsection (v).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a policy for policy years beginning after the date that is 18 months after the date of enactment of this Act.

(b) LIMITATIONS ON GENETIC TESTING.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

''(v) LIMITATIONS ON GENETIC TESTING.—

''(1) GENETIC TESTING.—

''(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

''(i) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(ii) limit the authority of a health care professional who is employed by or affiliated with an issuer of a medicare supplemental policy and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(iii) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(2) DEFINITIONS.—In this subsection:

''(A) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(i) the spouse of the individual;

''(ii) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

''(iii) any other individuals related by blood to the individual or to the spouse or child described in clause (i) or (ii).

''(B) GENETIC INFORMATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'genetic information' means information about—

''(I) an individual's genetic tests;

''(II) the genetic tests of family members of the individual; or

''(III) the occurrence of a disease or disorder in family members of the individual.

''(ii) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(C) GENETIC TEST.—

''(i) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(ii) EXCEPTIONS.—The term 'genetic test' does not mean—

''(I) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(II) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(D) GENETIC SERVICES.—The term 'genetic services' means—

''(i) a genetic test;

''(ii) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(iii) genetic education.

''(E) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term 'issuer of a medicare supplemental policy' includes a third-party administrator or other person acting for or on behalf of such issuer.''.

(2) CONFORMING AMENDMENT.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

''(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (v).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning on or after the date that is 18 months after the date of enactment of this Act.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2004, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2004, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) October 1, 2004.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2004 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins

on or after July 1, 2004. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 105. PRIVACY AND CONFIDENTIALITY.

(a) APPLICABILITY.—Except as provided in subsection (d), the provisions of this section shall apply to group health plans, health insurance issuers (including issuers in connection with group health plans or individual health coverage), and issuers of medicare supplemental policies, without regard to—

(1) section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a));

(2) section 2721(a) of the Public Health Service Act (42 U.S.C. 300gg–21(a)); and

(3) section 9831(a)(2) of the Internal Revenue Code of 1986.

(b) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—

(1) IN GENERAL.—The regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) shall apply to the use or disclosure of genetic information.

(2) PROHIBITION ON UNDERWRITING AND PREMIUM RATING.—Notwithstanding paragraph (1), a group health plan, a health insurance issuer, or issuer of a medicare supplemental policy shall not use or disclose genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(c) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

(1) IN GENERAL.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(2) LIMITATION RELATING TO THE COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) concerning a participant, beneficiary, or enrollee prior to the enrollment, and in connection with such enrollment, of such individual under the plan, coverage, or policy.

(3) INCIDENTAL COLLECTION.—Where a group health plan, health insurance issuer, or issuer of a medicare supplemental policy obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning a participant, beneficiary, or enrollee, such request, requirement, or purchase shall not be considered a violation of this subsection if—

(A) such request, requirement, or purchase is not in violation of paragraph (1); and

(B) any genetic information (including information about a request for or receipt of genetic services) requested, required, or purchased is not used or disclosed in violation of subsection (b).

(d) APPLICATION OF CONFIDENTIALITY STANDARDS.—The provisions of subsections (b) and (c) shall not apply—

(1) to group health plans, health insurance issuers, or issuers of medicare supplemental policies that are not otherwise covered under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note); and

(2) to genetic information that is not considered to be individually-identifiable health information under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(e) ENFORCEMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy that violates a provision of this section shall be subject to the penalties described in sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5 and 1320d–6) in the same manner and to the same extent that such penalties apply to violations of part C of title XI of such Act.

(f) PREEMPTION.—

(1) IN GENERAL.—A provision or requirement under this section or a regulation promulgated under this section shall supersede any contrary provision of State law unless such provision of State law imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications imposed under this section or such regulations. No penalty, remedy, or cause of action to enforce such a State law that is more stringent shall be preempted by this section.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to establish a penalty, remedy, or cause of action under State law if such penalty, remedy, or cause of action is not otherwise available under such State law.

(g) COORDINATION WITH PRIVACY REGULATIONS.—The Secretary shall implement and administer this section in a manner that is consistent with the implementation and administration by the Secretary of the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(h) DEFINITIONS.—In this section:

(1) GENETIC INFORMATION; GENETIC SERVICES.—The terms ''family member'', ''genetic information'', ''genetic services'', and ''genetic test'' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), as amended by this Act.

(2) GROUP HEALTH PLAN; HEALTH INSURANCE ISSUER.—The terms ''group health plan'' and ''health insurance issuer'' include only those plans and issuers that are covered under the regulations described in subsection (d)(1).

(3) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term ''issuer of a medicare supplemental policy'' means an issuer described in section 1882 of the Social Security Act (42 insert 1395ss).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 106. ASSURING COORDINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(b) AUTHORITY OF THE SECRETARY.—The Secretary of Health and Human Services has the sole authority to promulgate regulations to implement section 105.

SEC. 107. REGULATIONS; EFFECTIVE DATE.

(a) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall issue final regulations in an accessible format to carry out this title.

(b) EFFECTIVE DATE.—Except as provided in section 104, the amendments made by this title shall take effect on the date that is 18 months after the date of enactment of this Act.

TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

SEC. 201. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

(2) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—

(A) IN GENERAL.—The term ''employee'' means—

(i) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or

(v) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) EMPLOYER.—The term ''employer'' means—

(i) an employer (as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(ii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(iv) an employing office, as defined in section 411(c) of title 3, United States Code; or

(v) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(C) EMPLOYMENT AGENCY; LABOR ORGANIZATION.—The terms ''employment agency'' and ''labor organization'' have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(D) MEMBER.—The term ''member'', with respect to a labor organization, includes an applicant for membership in a labor organization.

(3) FAMILY MEMBER.—The term ''family member'' means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(4) GENETIC INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''genetic information'' means information about—

(i) an individual's genetic tests;

(ii) the genetic tests of family members of the individual; or

(iii) the occurrence of a disease or disorder in family members of the individual.

(B) EXCEPTIONS.—The term ''genetic information'' shall not include information about the sex or age of an individual.

(5) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(6) GENETIC SERVICES.—The term ''genetic services'' means—

(A) a genetic test;

(B) genetic counseling (such as obtaining, interpreting or assessing genetic information); or

(C) genetic education.

(7) GENETIC TEST.—

(A) IN GENERAL.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) EXCEPTION.—The term ''genetic test'' does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

SEC. 202. EMPLOYER PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee); or

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee).

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee (or information about a request for the receipt of genetic services by such employee or a family member of such employee) except—

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where—

(A) health or genetic services are offered by the employer, including such services offered as part of a bona fide wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer provides written notice of the genetic monitoring to the employee;

(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 203. EMPLOYMENT AGENCY PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employment agency, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;

(3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employment agency provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 204. LABOR ORGANIZATION PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member);

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member); or

(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member (or information about a request for the receipt of genetic services by such member or a family member of such member) except—

(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;

(2) where—

(A) health or genetic services are offered by the labor organization, including such services offered as part of a bona fide wellness program;

(B) the member provides prior, knowing, voluntary, and written authorization;

(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the labor organization except in aggregate terms that do not disclose the identity of specific members;

(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the labor organization provides written notice of the genetic monitoring to the member;

(B)(i) the member provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the member is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 205. TRAINING PROGRAMS.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services;

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;

(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.

(a) TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member), such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member.

(b) LIMITATION ON DISCLOSURE.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member) except—

(1) to the employee (or family member if the family member is receiving the genetic services) or member of a labor organization at the request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall provide the employee or member with adequate notice to challenge the court order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation; or

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws.

SEC. 207. REMEDIES AND ENFORCEMENT.

(a) EMPLOYEES COVERED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(i), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(b) EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b, 2000e–16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers, remedies, and procedures this title provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(ii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(c) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(4) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iv), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(e) EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee or applicant described in section 201(2)(A)(v), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(f) DEFINITION.—In this section, the term ''Commission'' means the Equal Employment Opportunity Commission.

SEC. 208. DISPARATE IMPACT.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, ''disparate impact'', as that term is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–d(k)), on the basis of genetic information does not establish a cause of action under this Act.

(b) COMMISSION.—On the date that is 6 years after the date of enactment of this Act, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the ''Commission'') to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 8 members, of which—

(A) 1 member shall be appointed by the Majority Leader of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate;

(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(E) 1 member shall be appointed by the Speaker of the House of Representatives;

(F) 1 member shall be appointed by the Minority Leader of the House of Representatives;

(G) 1 member shall be appointed by the Chairman of the Committee on Education and the Workforce of the House of Representatives; and

(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and the Workforce of the House of Representatives.

(2) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(d) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) REPORT.—Not later than 1 year after all of the members are appointed to the Commission under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.

SEC. 209. CONSTRUCTION.

Nothing in this title shall be construed to—

(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or

(B) establish a violation under this title for an employer, employment agency, labor organization, or joint labor-management committee of a provision of the amendments made by title I;

(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title;

(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

(5) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;

(6) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule); and

(7) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

SEC. 210. MEDICAL INFORMATION THAT IS NOT GENETIC INFORMATION.

An employer, employment agency, labor organization, or joint labor-management committee shall not be considered to be in violation of this title based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.

SEC. 211. REGULATIONS.

Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations in an accessible format to carry out this title.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title (except for section 208).

SEC. 213. EFFECTIVE DATE.

This title takes effect on the date that is 18 months after the date of enactment of this Act.

TITLE III—MISCELLANEOUS PROVISION

SEC. 301. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.

Mr. STEVENS. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR IRAQ AND AFGHANISTAN SECURITY AND RECONSTRUCTION ACT, 2004—Continued

AMENDMENT NO. 1830

The PRESIDING OFFICER. There are 4 minutes equally divided on the Bingaman amendment.

Mr. STEVENS. This is a very serious amendment.

Parliamentary inquiry. There are 2 minutes on each side on the Bingaman amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Does the Senator wish to speak first?

Mr. BINGAMAN. I will defer to the Senator from Alaska.

Mr. STEVENS. I will yield our time to Senator WARNER, chairman of the Armed Services Committee.

Mr. WARNER. Go right ahead.

Mr. BINGAMAN. Mr. President, in previous military campaigns such as the first gulf war and Kosovo, and many before that, the Pentagon has issued campaign medals to service men and women who served in those conflicts. We need to do the very same in the case of our service men and women who are serving in Iraq.

The amendment I am proposing says the Secretaries of the respective services may issue an appropriate medal or campaign designation to any person who serves in any capacity in the armed services in connection with Operation Iraqi Freedom. In my view, this is much preferable to the Pentagon's current policy, which is that everyone should get a Global War on Terrorism Medal instead of a medal that relates to their service in Iraq.

The service men and women who are risking their lives in Iraq deserve to be recognized for their service in that country. This is a major military engagement we have gotten into here and there will be a lot of service men and women involved. We definitely should make this a separate medal.

That is the thrust of the amendment. Senator LUGAR is a cosponsor, along with many others. I ask unanimous consent to add Senators BYRD, LEAHY, and JEFFORDS to those who are already listed as cosponsors.

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

Mr. WARNER. Mr. President, I say to my colleagues, I would like to think of myself as the last person to ever take the floor of the Senate and say a man or a woman proudly wearing the uniform of the United States should not receive everything that is offered. But in this instance—I do not oppose this—I simply ask you to examine it in the sense of fairness. What do you say to the widow of someone who lost his life in Afghanistan? What do you say to those who have injured soldiers in the Horn of Africa, Liberia, Philippines, Colombia, and other places, all engaged in the war on terrorism?

I do not understand this. I have read it. I have reread it. It says, for example, to those serving in Iraq, prohibition of concurrent award of Global War on Terrorism Expeditionary Medal. They cannot receive it. For what reason, I do not know.

I say to my dear friend, a former member of the Armed Services Committee, this is a matter that requires

close examination. This issue of awarding men and women of the Armed Forces is properly reposed in the chairman and the members of the Joint Chiefs of Staff. They acted in March of this year to create the Medal for the Global War on Terrorism. Our distinguished Senator from South Carolina, while serving in the Army, got a star for the European theater for engagements; those who crossed the Anzio Beach, those in Africa, a star. There was one theater medal with stars given for the various engagements. That is not this situation. That says the one who served in Iraq should get something special the others do not receive. That is not fair, I say to my good friend.

Accordingly, at the appropriate time, I will move to table.

The PRESIDING OFFICER. The Senator is advised a motion to table is not in order.

Mr. BINGAMAN. Mr. President, this is not intended to prevent the Pentagon from issuing any other awards they wish with regard to Afghanistan or other locations, but it is clear to me that issuing a Global War on Terrorism Medal is not adequate for the service we are calling on our men and women to perform in Iraq. We should give them a medal for that campaign. That is all the amendment does.

I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. STEVENS. Mr. President, there is substantial interest in this amendment. I don't know if the Senator wishes to have any more time.

Mr. BINGAMAN. Mr. President, I have had plenty of time. I suggest we vote.

The PRESIDING OFFICER. All time is expired.

Mr. NICKLES. I ask unanimous consent the Senator from Arizona be allowed to speak for 3 minutes and the opposing side be allowed to speak for 3 minutes.

Mr. REID. Reserving the right to object, we are working very hard before the White House meeting to get in another vote. Could we limit this? I know everyone wants to hear these speeches, but could we try a minute or so on each side. Otherwise, we will waste the entire afternoon with White House meetings.

Mr. NICKLES. I renew my request to 2 minutes on each side.

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

The Senator from Arizona.

Mr. MCCAIN. Mr. President, none of us understands a prohibition on a concurrent award of any other medal. This is unprecedented. Never in the history of our military has the Senate or Congress mandated the awarding of one medal or the prohibiting of an awarding of another medal.

We all want to honor the men and women who have served in the military and have sacrificed. Where is it that the Senator from New Mexico gets the expertise or the knowledge to deny any medal that is judged by the leaders of the military and the President of the United States? It is very laudable to award a medal to people who served and sacrificed. Instead, the Senator from New Mexico has to complicate it to the point where the Senator from Virginia and I have to stand and say: What is this all about?

Mr. NICKLES. Will the Senator from Arizona yield?

Mr. MCCAIN. So the point is, the Senator from New Mexico complicated an otherwise straightforward issue by deciding who is in what theater of war and what the war on terrorism is about. And the Senator from New Mexico should have left it alone.

Mr. NICKLES. Will the Senator from Arizona yield?

Mr. MCCAIN. I am glad this is a bicameral legislature we have because I do not think the House of Representatives would ever agree to such a thing, nor would the leaders of our military.

I yield to the Senator from Oklahoma.

Mr. NICKLES. The Senator from Arizona—

Mr. WARNER. What do you say to the widow of someone who has lost their life in Afghanistan?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Correct me if I am wrong. It is my understanding the Department of Defense opposes this amendment.

Mr. WARNER. Correct.

Mr. NICKLES. For the reasons stated by the Senator from Virginia and the Senator from Arizona.

Mr. MCCAIN. That is correct.

Mr. WARNER. That is correct.

Mr. MCCAIN. I say to the Senator from New Mexico, we should be able to work this out to everyone's satisfaction, but if you insist on micromanaging to the degree of where people serve and what they are eligible for, then we will never be able to honor those men and women who serve.

Why didn't the Senator from New Mexico leave this alone?

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

The Senator from New Mexico has 2 minutes.

Mr. BINGAMAN. Mr. President, the Senator from Arizona raises a valid point about the prohibition section, which is subsection (d). And I ask unanimous consent that be deleted from the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, I will object because—I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. BINGAMAN. Mr. President, the only argument I have heard against the amendment that, to me, made good sense was a concern about the prohibition provision, subsection (d) of the amendment. I have asked permission to delete that and it has been denied.

So I would just simply suggest to my colleagues that it is more appropriate and more consistent with the policy of this country to give awards for major military conflicts such as what we have been engaged in in Iraq than it is to give a Global War on Terrorism award to everything that happens from 9/11 forward. The reality is, the people who are serving in Iraq deserve to be recognized for that. That is all we are trying to do with this amendment.

I urge my colleagues to support the amendment.

Mr. WARNER. How can you elevate a death or a loss in Iraq over one in Afghanistan?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Mexico has the floor.

Mr. BINGAMAN. Mr. President, let me say in response to my colleague from Virginia, if he would like to offer an amendment to give an award to those who served in Afghanistan, I will cosponsor and support that.

I have proposed something for the men and women who have served in the conflict in Iraq. And I think it is an appropriate thing for the Congress to do.

I urge my colleagues to support the amendment.

Mr. GREGG. Mr. President, I have a parliamentary inquiry.

Mr. BINGAMAN. Mr. President, are we going to have more debate on this amendment?

The PRESIDING OFFICER. The time on the majority side has expired.

Mr. STEVENS. Time has expired.

Mr. President, I call for a vote.

I opposed this before. The Department opposes it. I call for a vote.

Mr. GREGG. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator may state his inquiry.

Mr. GREGG. Is this motion divisible?

The PRESIDING OFFICER. The amendment is divisible.

Mr. GREGG. I move the item be divided. I ask for a division. I ask that the division be on subsection (d).

The PRESIDING OFFICER. The Senator has to give specifics on the division.

Mr. GREGG. Mr. President, I would ask that—

Mr. STEVENS. Parliamentary inquiry.

Mr. GREGG. All items after subsection (d)—page 3, line 8—be deleted, the question be divided on that point.

The PRESIDING OFFICER. Will the Senator restate the specifics of the division?

Mr. GREGG. Yes. My point is, on page 3, line 8, section (d), I ask that the motion be divided and that the motion be a separate motion on that section and everything that follows it within section (d).

The PRESIDING OFFICER. The amendment is divided.

VOTE ON AMENDMENT NO. 1830, DIVISION I

The question is on the first division. The yeas and nays have already been ordered.

Mr. STEVENS. Parliamentary inquiry: What are we voting on now, Mr. President?

The PRESIDING OFFICER. The vote now occurs on agreeing to division I, which is pages 1 and 2 and 3 through line 7 of the original amendment. The yeas and nays have previously been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Minnesota (Mr. DAYTON), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

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

The result was announced—yeas 47, nays 48, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—47

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

NAYS—48

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

NOT VOTING—5

Dayton	Kerry	Miller
Edwards	Lieberman	

The amendment (No. 1830—Division I) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, parliamentary inquiry: What is the procedure now?

VOTE ON AMENDMENT NO. 1830, DIVISION II

The PRESIDING OFFICER. The question occurs on division II of amendment No. 1830.

Mr. REID. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on this vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to division II of amendment No. 1830.

The amendment (No. 1830—Division II) was rejected.

Mr. STEVENS. Mr. President, I simply say that I am sorry about this recent dispute. In the period of time before lunch, I made a statement, based upon a memo we got from the Department of Defense, that pointed out that the medals in question were authorized by the President at the request of the Joint Chiefs of Staff.

They had two reasons to oppose this Iraqi freedom medal. First, it is redundant to the general war on terrorism medal; second, it is devisive in that it inherently values participation in the Iraqi operation as opposed to Afghanistan and all others. In particular, the Department pointed out that, under the Global War on Terrorism Medals, there is an Expeditionary Medal that goes to those who serve in Iraq, Afghanistan, or in those places where there has been combat in the war against terrorism. The other medal is a Service Medal to recognize those people who are supporting personnel. It is not restricted by geographical boundaries. It is not only for the support of Operation Iraqi Freedom; it also applies to Operation Noble Eagle and airport security operations from September 27, 2001, to May 1, 2002.

The Senate has defeated a proposal to go on record to issue an Iraqi medal only to those who served in Iraq, and the Department has taken the position—that is what really caused consternation because they want medals to recognize specific and general sacrifices and contributions made by all Armed Forces in the efforts to combat terrorism in all forms throughout the world, both in current and future operations.

The Expeditionary Medal will continue to be issued to those who participate in the global war against terrorism and are involved in combat operations. I think what the Department has done at the request of the Joint Chiefs of Staff is inherently fair and proper. I want to reassure those who supported the position I enunciated and are opposed to this amendment, I believe you have done the right thing by those people who are in uniform and are sacrificing themselves and really exposing themselves in harm's way throughout the world.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, we have been discussing how we might proceed between now and 6:30. As I understand it, we have a unanimous consent request ready to propound. There is no objection to the request on this side. I see that the distinguished manager has the unanimous consent request, and I yield the floor so he can offer that.

Mr. STEVENS. Mr. President, I thank the distinguished leader.

I ask unanimous consent that there now be 30 minutes for debate in relation to the Stabenow amendment, with 20 minutes under the control of Senator STABENOW and 10 minutes under my control; provided that following the debate time, the Senate proceed to a vote in relation to the amendment, with no amendments in order to the amendment prior to the vote; that following that vote, the time until 6:30 this evening be equally divided in the usual form in relation to the Dorgan amendment No. 1846; and that the vote occur in relation to the Dorgan amendment at 6:30 p.m., with no amendments in order to the amendment prior to the vote.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1823

Ms. STABENOW. Mr. President, I ask unanimous consent that the pending amendments be set aside and I call up amendment No. 1823.

The PRESIDING OFFICER. That amendment is already pending.

Ms. STABENOW. I thank the Chair.

Mr. President, I rise today to speak about an amendment I am calling ''A Month for America.'' This amendment will delay approximately $5 billion in Iraq reconstruction funds and put them into funding our high priorities at home, such as job creation, veterans health, health care for the uninsured, and education.

I thank the cosponsors of this amendment—Senators DURBIN, BOXER, JOHNSON, and SCHUMER—for their leadership and support.

Two weeks ago, I was meeting with a group of constituents in Michigan, and we started to talk about the President's request for $87 billion for Iraq and Afghanistan. I shared with my constituents that we were spending about $5 billion a month now, in addition to the slightly over $20 billion in reconstruction funds contained in the bill in front of us.

My constituents in Michigan were startled at the enormity of this figure, as I believe our constituents are across the country, so much so that one gentleman who is on a local school board, sitting in the back, exclaimed: How about a month for America? This rang very true to me, and when I returned here, I decided to take this idea and draft an amendment focused on our needs at home called ''A Month for America.''

Before I fully explain the details of my amendment, I wish to go through

what this amendment does not do. This is very important.

First, it does not cut 1 penny of funding for our troops.

Second, it does not cut any funds for security in Iraq. It specifically exempts the approximately $5 billion in police and security funds for Iraq. I believe this is very important. The sooner they are able to have their own police force, their own security force, the sooner we will be able to bring our troops home, and I support that effort.

Third, it does not cut any funds for reconstruction. It only delays them. Therefore, this money is fully offset.

We are asking for $5.03 billion for America in this amendment and ask that we simply take a portion—the equivalent of 1 month's spending, $5.03 billion—and delay it until next year.

Even the administration admits that it does not need much of the $20 billion in reconstruction until next year. So it is not an emergency. We do not need the full $20 billion right now, and yet we have real emergencies at home.

There will be plenty of opportunities to provide this $5 billion for Iraq in the next appropriations cycle. In fact, last Thursday's New York Times reported that a team of World Bank economists has concluded that, as a practical matter, Iraq can absorb only about $6 billion in aid next year for its infrastructure needs. We are being asked to allocate more than $20 billion on reconstruction, and yet we are told, as a practical matter, they will not be able to use or spend over $6 billion in the next year. One administration official was even quoted as saying:

> Where the Iraq aid numbers are not so reasonable is the timeframe for how much can be spent. This money cannot be spent overnight.

They are admitting the fact this timeframe is not reasonable, and yet we know in ongoing debates in this Chamber with colleagues on every appropriations bill coming before us that we have critical needs for jobs and education, veterans health care, and those who are losing their insurance because of losing their job. We have many needs that are critical at home.

Specifically, the ''A Month for America'' amendment would take this $5.03 billion and allocate it in the following ways: First, $1 billion for school construction; $1.8 billion for veterans health care; $103 million for full funding of community health centers; and finally, $2.1 billion for transportation projects and job creation, saving 90,000 jobs.

The United States is spending a little over $1 billion a week right now in Iraq, not counting the $87 billion. However, when an amendment was recently offered to the 2004 Labor-HHS appropriations bill to increase funding for school construction at home by $1 billion, it was defeated on a party-line vote with only one of our Republican colleagues supporting the increased funding. This is very unfortunate because investing in our schools and in education should not be a partisan issue.

The ''A Month for America'' amendment will increase funding for school construction for the next year by $1 billion so that we can place more dollars into investing in our children walking into a quality school building with the technology and the infrastructure they need. Shame on us if we have even one classroom in America where there is a bucket in the corner to catch the water coming in. We have too many of those right now.

This amendment will help eliminate those buckets of water and create the modern school buildings our children need now in America.

Our schools are definitely in a state of emergency. According to a GAO report entitled ''School Facilities: America's School Report, Differing Conditions,'' at least one-third of schools are in need of extensive repair or replacement. This is not in Afghanistan or Iraq. This is in the United States of America. One-third of the schools are in need of extensive repair or replacement and at least two-thirds have unhealthy environmental conditions. So two out of three schools in the United States of America have unsafe environmental conditions. I argue this is an emergency equal to anything that is in front of us that relates to Iraq.

An estimated 14 million American children attend deteriorating schools. According to the National Education Association's 2000 survey, Michigan schools need at least $9.9 billion in building improvements. That is just in my State, given all of the needs we have from one end of Michigan to the other. Many Michigan educators believe that estimate in fact is too low, considering the Detroit public schools alone need an estimated $5 billion to fix leaky roofs, replace boilers, wire computers, and other repairs. This is truly an emergency.

How do we tell our children to stay in school, do not go on drugs, do not drop out of school and move to a life of crime, stay with it because education is so important, and then they walk into a building that is falling down, they walk into a building that does not have the computers they need in this day and age to be successful? What message are we sending to our children? This is an emergency.

These poor conditions also affect how well our children learn. A recent study showed students learning in substandard classrooms have test scores that are anywhere from 5 to 17 percent lower than their peers who are in good buildings. So when we are talking about leave no child behind and raising test scores and standards, the quality of the building, the science labs, the math labs, the technology that is available, makes a difference in a child's ability to learn. In addition, without this additional $1 billion in funding and with the significant State cuts in education funding, Americans will have to pay more in property taxes just to maintain the current level of services. Schools will not have the resources to make the necessary repairs. I argue this is an emergency for America.

Now on to veterans health care, which is of deep concern to me as well. The administration's budget for veterans health care falls far short of needs. We all know this. Despite the current crisis in veterans health care, some 130,000 are waiting 6 months or more for appointments at VA hospitals or clinics. President Bush submitted a budget for next year that is $1.8 billion below what is needed, according to the independent budget produced by AMVETS, Disabled Americans, Paralyzed Veterans of America, and the Veterans of Foreign Wars of the United States.

In this legislation, we are funding efforts to support the men and women who are fighting overseas on our behalf, who are on active duty. They come home, they become veterans, and they have to wait 6 months to see a doctor. What sense does this make? If we cannot keep basic promises to our veterans to make sure they have the health care they need, deserve, and we said they would receive, how in the world are we going to be credible in meeting other commitments?

Unfortunately, the House bill included the same shortfall, which is $1.8 billion lower than the budget resolution promise of a $3.4 billion increase over last year's level. The VA health care system is strained. Its budget has consistently been underfunded and does not address the health needs of our service men and women.

I am pleased to support Senator JOHNSON's bill to make health care spending for our veterans mandatory. This needs to happen, instead of being slighted by the administration and the Congress year after year. Right now, over 130,000 veterans wait 6 months or more for their primary care appointments. The system is so underfunded that category 8 veterans, nonservice-connected veterans who make above a certain income threshold, are prohibited from enrolling for benefits.

In my State, veterans officials are talking about losing another hospital, Saginaw VA facility, which means that some veterans in northern Michigan and the Upper Peninsula of Michigan will have to drive over 200 miles to Ann Arbor or Detroit for inpatient care. I am extremely hopeful they will not proceed with this proposal.

This amendment commits Congress to keeping our promises to our veterans who have earned the right to access to health care that was created to serve their needs. Our veterans deserve better than a chronically underfunded system, long waits for care, and a Nation that has asked them to pay the price for our freedom, only to be shortchanged at home.

Item 3 in Month for America, according to the recently released U.S. Census Report, the number of Americans

without health care has jumped 5.7 percent to 43.6 million Americans. This is the largest single increase in the number of the uninsured in the last decade. According to Families USA, a health care consumer organization, there were 2.3 million people in my own State of Michigan under the age of 65 who went without health insurance some time in the past year. That means one in four people in Michigan under the age of 65 was uninsured. Think about that. In the greatest country in the world, those without insurance often delay or avoid needed services, which results in a direct increase in more costly emergency room care.

Who are these people? Seventy-five percent of them are working. They are working in small businesses that would provide health insurance but for the explosion in prices. These are people who work in every part of our economy. In recent studies, the sagging economy suggests these numbers are only going to increase if relief is not in sight. I tell folks we are going to be funding a Government-funded universal system in Iraq for every Iraqi to have health care and yet in my home State, and I would venture it is comparable across the country, one out of four people does not have health care. Last year, community health centers across the country served nearly 5 million uninsured Americans. Community health centers have a 30-year track record of success, and that is where these dollars would go. Study after study has shown that health centers effectively and efficiently improve our Nation's health.

In the last 3 years, they have served nearly 800,000 American citizens. We need to fully fund community health centers at the level necessary for them to do their work and serve working families who are not lucky enough to have health insurance from their employers.

The Month for America amendment would provide $103 million for full funding of federally qualified community health centers to help deal with the number of Americans who lack health insurance. This is such a small investment that obviously yields great rewards. For every $100 the Federal Government has been able to allocate to community health centers, these centers have been able to serve one additional new patient. Think about that. For $100, another child can be served, another mom, or another dad who has lost his job or lost his insurance.

The Month for America amendment would allow an additional 1.03 million Americans to receive access to primary care services; 1.03 million people could have access to a doctor and the health care they need.

We know this is not a complete solution to the issue of health care. I certainly have been very involved in a number of ways to bring down costs and to address the concerns of small and large businesses and those who do not have insurance, but it surely would help to be able to fully fund our health centers.

As my colleagues know, in the final item in the Month for America, the TEA–21 transportation bill expired at the end of September, but Congress has not passed a new 6-year bill which is critical to the needs of communities, to jobs, and to the economy. A new 6-year bill would provide hundreds of thousands of jobs to help the economy and improve the safety of our Nation's roads and bridges. Instead, Congress passed a short-term, 5-month extension of TEA–21. According to the American Association of State Highway and Transportation Officials, a short-term extension rather than passage of the 6-year bill will compound State budget problems and result in delayed projects, added project costs, and lost jobs. They indicate that a delay in passing a new 6-year bill would mean the loss of more than 90,000 jobs and $2.1 billion in project delays.

This is about jobs. We need those jobs for American citizens. A 6-year bill would create hundreds of thousands of jobs. We know that passing a 6-year $311 billion highway bill would create more than 650,000 jobs in America and almost 23,000 jobs in Michigan alone.

Our Nation's transportation infrastructure needs our help now. This really is an emergency.

According to the Texas Transportation Institute's 2003 Urban Mobility Study, the cost of congestion continues to skyrocket, and in 2001 traffic congestion cost the Nation $69.5 billion—$4.1 billion more than in the year 2000—5.7 billion gallons of wasted fuel, and 3.5 billion hours of lost productivity sitting in our cars on those roads. We each understand that. Traffic congestion cost southeastern Michigan over $2.1 billion in 2001 and cost the average Detroiter $523 per person.

The PRESIDING OFFICER (Mrs. DOLE). The Senator's time has expired.

Ms. STABENOW. Madam President, I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Madam President, I yield the Senator 5 minutes of my time.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 5 minutes.

Ms. STABENOW. I thank the chairman very much for his graciousness.

The Month for America amendment will provide $2.1 billion in highway and transit funds to high-priority projects that can begin within 90 days. This will create immediate jobs. Not only will this prevent the project delays resulting from the lack of a 6-year transportation bill, but it will, again, create over 90,000 jobs. We all know we need more jobs in America, and we need them now. This is an emergency for every single individual and every family who finds themselves in a situation now where there has been a job loss in the family.

Some people will say that modernizing our schools, providing health care to veterans and those without insurance, and creating jobs is not an emergency. I completely disagree. These are crises in America that need immediate attention.

At the same time, when I looked through Ambassador Bremer's report entitled ''The Coalition Provisional Authority Request to Rehabilitate and Reconstruct Iraq,'' I found billions of dollars for projects which neither I nor the American people believe are emergencies. They may be worthy, but they are not as much of an emergency as these needs here at home. I want to point out just a few to my colleagues.

The first item I found was $161 million for wireless networks, computer training, and equipment. We would love to have this in Michigan. I have many businesses that would love to have wireless networks. There is no question that this is a laudable goal. But is it an emergency? I don't think so. Couldn't this wait until next year while we try to establish security and basic services in Iraq?

The second item is $20 million for business training for Iraqis. This money will provide 4 weeks of business courses to Iraqis for a whopping $10,000 a person. If I might plug my alma mater, this is more than it would cost for a full year at the Michigan State University Business School. We welcome people coming to Michigan State.

The third item is $43 million for job training and 22 new Iraqi job employment centers. Iraq may have a problem with unemployment, but we also have a problem with unemployment here at home. Since 2001, we have lost 2.5 million manufacturing jobs in this country, many of them in my home State—162,300 of them, in fact, in Michigan. This is a loss of 18 percent of Michigan's manufacturing employment—one out of six of our manufacturing jobs.

Other items include $9 million to establish ZIP Codes in Iraq—a nice thing to do, but I think it could wait—and $50 million for marshes. I am anxious to go see them since I thought this was a desert.

These do not seem to be emergencies. We are saying, can these please wait until next year so that health care for our families and jobs for our families will not have to wait and veterans will not have to wait a month to see a doctor.

School construction and jobs are certainly a high priority. Why should these Iraqi projects get special treatment in an emergency supplemental bill while funds for our infrastructure and our needs have to wait and compete with other priorities next year? It seems to me the money for our roads and schools should get special budgetary treatment and Iraq projects can wait.

We are not asking for all of them to wait. The administration has indicated they can use about $6 billion in the coming year. I am suggesting they get the $15 billion. We are just asking for $5 billion—1 month for America. I

think these so-called emergency items for Iraq can wait and we can involve ourselves in the normal budget process to determine whether they are needed.

We need to act now here at home. We need jobs now. We need health care now. We need to rebuild our schools now and we need to support our troops when they come home and put on their veterans hats when they will need health care.

Some people say we can't do both. I believe we can. Let us send a message today that while we support our troops unanimously, we want to have 1 month of funding for America here at home. If we agree to this amendment, we can do both. I ask my colleagues before they vote on this amendment to think about those who would be impacted by this.

I urge support for this amendment.

Mrs. BOXER. Madam President, I am proud to support the amendment offered by the Senator from Michigan to provide funding for important domestic priorities. This amendment is called ''A Month for America.''

Each month, the U.S. is spending roughly $5 billion for operations in Iraq and Afghanistan at a time when important priorities here at home go unmet. This amendment would take $5 billion of the reconstruction money earmarked for Iraq and allocates it in the following way: $1 billion for school construction, $1.8 billion for health programs for our veterans, $103 million for community health centers, and $2.1 billion for highways and public transit.

These domestic priorities are an emergency now. Surely we can delay $5 billion in Iraqi reconstruction funds until the fiscal year 2005 when even the World Bank says that only $5.8 billion can be absorbed by Iraq next year to rebuild its infrastructure.

I want to talk about the need for new Federal spending to help rebuild and rehabilitate schools in California. These are the current conditions: 87 percent of schools report a need to upgrade or repair building to good overall condition; 71 percent of schools report at least one inadequate building feature, such as the roof, plumbing, electrical systems, windows, or heating and air conditioning; and 87 percent of schools report at least one unsatisfactory environmental factor, such as air quality, ventilation, heating, or lighting.

This is an emergency. Yet when an amendment was offered by Senators CLINTON and HARKIN to the fiscal year 2004 Labor-HHS bill to increase funding for school reconstruction by $1 billion for the entire year, it was defeated on a party-line vote with only one Republican supporting the increased funding.

It is a shame that this supplemental bill will spend in excess of $100 million for education in Iraq but not one penny for education in California.

The Bush administration wants to spend $10,000 per month for business school in Iraq—more than double the monthly cost of Harvard Business School—but there is no funding for the children in California.

This amendment also provides $1.8 billion for health care to our veterans so that we can fulfill the commitment made to them for their sacrifices.

President Bush submitted a fiscal year 2004 budget request for VA health that is $1.8 billion below the Independent Budget produced by AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and the Veterans of Foreign Wars of the United States. It would be a great comfort for those fighting now to know that the U.S. Congress is serious about meeting the needs of those who fought before them.

On healthcare, the supplemental provides $850 million for Iraq to construct a new hospital and replace medical equipment. And while we should help those in need throughout the world, we should also provide for those at home. That is why the Stabenow amendment provides $103 million for federally qualified community health centers that have been shown to reduce inpatient admission rates for their patients by anywhere from 22 percent to 67 percent, and have reduced the number of patients admitted per year and the length of stay among those who were admitted.

Finally, this amendment would provide $2.1 billion for highway and public transit programs. Transit is so important for my State. We have so much congestion that we must improve our highways and roads and build public transportation.

According to the Texas Transportation Institute, Los Angeles and the San Francisco-Oakland region are ranking No. 1 and 2 for the worst roadway congestion in this country. California has two more cities in the top 5 with San Jose ranked 4 and San Diego ranked 5.

The Inland Empire of San Bernardino and Riverside Counties is ranked 12 and Sacramento is ranked 13.

What does this congestion translate to? Delays. In the Los Angeles area: 136 hours per year, on average per driver, in peak hours. San Francisco-Oakland drivers put up with 92 hours of delays, and San Jose drivers endure 74 hours of delays. Inland Empire drivers are delayed by 64 hours, and San Diego drivers are delayed by 51 hours a year.

Californians are trying to reduce congestion. More Californians are using alternative forms of transportation. Public transit carries over 1.2 billion passengers a year in California.

Transit ridership is up in California. The number of miles traveled annually by transit passengers grew by 20 percent between 1997 and 2001. The number of annual passenger trips was up 14 percent. In the San Francisco Bay Bridge corridor, 38 percent of all trips are on transit. And, 30 percent of all trips into central Los Angeles are on transit.

Like the other domestic priorities outlined in the Stabenow amendment, we need to fund transit so we can improve our infrastructure in this country. I thank the Senator from Michigan for her amendment and urge its adoption.

Mr. STEVENS. Madam President, do I have 10 minutes remaining?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. STEVENS. Madam President, the Senator from Michigan has been talking about veterans health care and school construction. We are talking about Iraq and how to get our people home. We get them back by assisting the Iraqis in taking over the management of their own country. We do that by providing an infusion of capital to help restore that government to operation so it can take over and provide the security services, provide for the economic management services, and provide the army. It takes money to do that.

As I pointed out before we went on recess, the President has chosen a unique approach. We could have gone in with the military and occupied that country for 4 to 5 years, as we did in Germany and as we just did in Kosovo. We are still bringing people out of Bosnia and Kosovo because we did not do that. This time we are going in to try to help them get in the position to take care of themselves and bring our people back.

This is at the request of the other side of the aisle. The President has sent us a unique supplemental. The Democratic Party commanded that the President give us a budget for 2004 for Iraq. This is it.

No President has done this in history. President Clinton did not do it. In fact, President Roosevelt did not do it. President Eisenhower did not do it. President Johnson did not do it.

This President budgeted ahead of time for war, for a concept of finishing what we started. Part of what we started was to put in place a government in Iraq that would not be the despotic regime of Saddam Hussein.

Argue all you want about the need for money. I agree, there is certainly a need for more money for veterans health care. I disagree about the statement concerning the need for new public school facilities. I am informed that in 2002 alone, school districts completed $11.7 billion of new construction.

The recent study of the General Accounting Office and the National Center for Education Statistics indicates that schools are in better condition than they have been in the past; 81 percent of the schools reported their buildings were in adequate or better condition, 84 percent reported them to be in adequate or better condition. It is a minority of schools that are not in adequate shape.

One place where there are no schools without our assistance is Iraq. How will our men and women come home unless the schools are functioning, unless the police are functioning, unless the army is functioning, unless the economy is functioning? That is the way to get them home.

If we do not provide this $20.3 billion, we can increase the money for the occupation and occupy that enormous

country for 4 to 5 years. We know what it is costing. Look at the budget we have: $66 billion for defense, $20.3 billion for assisting Iraq to become a nation. The $66 billion will go on and on and on, a demand for more and more money for the military in Iraq unless we take the action the President has requested and provide the $20.3 billion necessary. The amendment of the Senator will take over $5 billion out of that. It will cripple that program.

We will have to send more and more people in uniform to do for Iraqis what they could do for themselves if they had the money to start their economy, start their security systems, start their military systems, start their whole governmental systems and make them work. That is what we should do. Some people call it nation building; I call it nation reconstructing. But in any event, it is an absolute necessity at this time to put the Iraqis back in control of their own affairs. It will not happen if the Stabenow amendment is adopted.

I yield back the remainder of my time. I move to table the amendment of the Senator, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Minnesota (Mr. DAYTON), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

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

The result was announced—yeas 59, nays 35, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—59

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

NAYS—35

Akaka	Dodd	Nelson (FL)
Baucus	Dorgan	Reed
Bayh	Durbin	Reid
Boxer	Feingold	Rockefeller
Breaux	Feinstein	Sarbanes
Clinton	Graham (FL)	Schumer
Conrad	Harkin	Stabenow
Corzine	Hollings	Wyden
Daschle	Inouye	
Dayton	Jeffords	
Edwards	Johnson	
Kerry	Kennedy	
Kohl	Landrieu	
Lieberman	Lautenberg	
Miller	Leahy	
	Levin	
	Lincoln	
	Mikulski	

NOT VOTING—6

Dayton	Kerry	Lieberman
Edwards	Kohl	Miller

The motion was agreed to.

Mr. COCHRAN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. What is the matter now before the Senate?

AMENDMENT NO. 1826

The PRESIDING OFFICER. The time between now and 6:30 is equally divided with respect to amendment No. 1826.

Mr. REID. Madam President, we understand that is the order that has been entered. Senator DORGAN squeezed his time previously from 3 hours to 2 hours, and now it is 45 minutes. That is because this vote took so long. I hope the majority will push the votes more quickly. That vote took 30 minutes.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, is my amendment now pending?

The PRESIDING OFFICER. Yes.

Mr. DORGAN. I yield myself such time as I may consume. We also have other speakers on this amendment.

Mr. President, I have spoken about this amendment on previous occasions. The amendment directs the Coalition Provisional Authority, in cooperation with the Governing Council of Iraq, to create an Iraq Reconstruction Finance Authority. The purpose of the Iraq Reconstruction Finance Authority shall be to securitize future production of Iraqi oil, in order to finance the reconstruction of Iraq.

In short, this amendment says that the reconstruction of Iraq should involve the Iraqi people, using Iraqi oil to reconstruct their country and that it should not be the American taxpayers reconstructing Iraq.

This morning's Washington Post says that the Secretary of State is at the United Nations, attempting to get a resolution passed that would confer on the Iraqi Governing Council and its Ministers the sovereignty over the state of Iraq. Surely, if this administration is ready to recognize the Iraqi Governing Council as the sovereign of the state of Iraq, that body should have the ability to use future revenues from the sale of Iraqi oil, to reconstruct their own country.

The fact is that, for months, this administration told us that Iraq's oil would allow the Iraqi people to finance their own reconstruction.

Mr. Fleischer, the White House press secretary, said this in February:

Iraq, unlike Afghanistan, is a rather wealthy country. They have tremendous resources that belong to the Iraqi people and so therefore a variety of means that Iraq has to be able to shoulder much of the burden for their own reconstruction.

Mr. Fleischer was followed by Mr. Wolfowitz, the Deputy Secretary of State. He said that the oil revenues of that country could bring between $50 billion and $100 billion over the course of the next 2 or 3 years and that we are dealing with a country that can really finance its own reconstruction, and relatively soon.

The Defense Secretary himself, Donald Rumsfeld, in March, said:

I don't believe the U.S. has the responsibility for reconstruction, in a sense . . . and the funds can come from those various sources I mentioned: frozen assets, oil revenues, and a variety of other things.

Well, that is at odds with the current request by the President to the Congress, saying we need to have $20-plus-billion for the reconstruction. The Deputy Secretary of State said oil revenue could do that. The Secretary of Defense said that oil revenue would be available for that.

And then Vice President CHENEY, on March 16, said:

In Iraq, you've got a nation that has the second largest reserves of oil in the world—second only to Saudi Arabia. It will generate billions of dollars a year in cash flow in the relatively near future. And that flow resources, which obviously belongs to the Iraqi people, needs to be put to use by the Iraqi people for the Iraqi people, and that will be one of the major objectives.

Then, the person at the State Department who is responsible for reconstruction, Mr. Natsios, had the following exchange on ''Nightline'' with Ted Koppel.

Koppel said:

I understand that more money is expected to be spent on that than was spent on the entire Marshall plan for the rebuilding of Europe after the World War II.

Natsios said:

No, no, that doesn't even compare remotely with the size of the Marshall plan.

Koppel:

The Marshall plan was $97 billion.

Natsios:

This is $1.7 billion.

Talking about the reconstruction plan for Iraq.

The program continued.

Koppel said:

When you talk about 1.7, you are not suggesting that the rebuilding of Iraq is going to be done for $1.7 billion.

Natsios:

Well, in terms of the American taxpayers' contribution, I do. This is it for the U.S. The rest of the rebuilding will be done by other countries who have already made the pledges, and by Iraqi oil revenues.

Will you excuse a few of us for believing the Vice President, the Secretary of Defense, the Deputy Secretary of Defense, and others, who repeatedly said this year that the American taxpayers won't be on the hook for the reconstruction of Iraq? Will you excuse us

for believing we could use Iraq oil for this purpose? That is what they said would happen. Now the administration says that is not the case at all and they want to use the American taxpayers' dollars to shoulder the burden for reconstruction of Iraq.

Mr. DURBIN. Will the Senator yield?

Mr. DORGAN. Let me make this one point. I asked Ambassador Bremer to explain whether it would be possible to securitize Iraq's future oil revenues to pay for Iraq's reconstruction. Ambassador Bremer's answer: You can't use Iraq oil because Iraq owes foreign debt.

I said: Who to?

He said: Russia, France, and Germany.

Following that hearing, I checked. In fact, Russia, France, and Germany are indeed owed money by Saddam Hussein's regime. But the biggest creditors of Saddam Hussein's regime are Saudi Arabia and Kuwait.

Wouldn't it be a perversity if, in fact, the American taxpayers are told that they have to pay taxes to ship $20 billion to Iraq to reconstruct Iraq—so Iraq can pump oil and send cash to Saudi Arabia and Kuwait in satisfaction of Saddam Hussein's debts?

You talk about a perversity of public policy. That is it.

My amendment is painfully simple. It says that the Iraqi Governing Council shall have a mechanism that would allow it to use Iraqi oil to reconstruct Iraq.

One final point. During the recent military campaign in Iraq, we did not target Iraq's infrastructure. We didn't bomb its roads, bridges, dams, or electric grid. Now, Iraq does need reconstruction, no question about that, but the reconstruction is necessary because of decades of neglect. It is not because of any action by our military. And the fact is that the Iraqi people have a tremendous resource to finance that reconstruction, which they could and should use.

So the President ought not be so quick to ask for $20 billion from the American taxpayers for reconstruction, when his Vice President, the Secretary of Defense, the Deputy Secretary of Defense, and all the rest of them said this year that the reconstruction of Iraq would be financed with Iraqi oil. Now we are told it cannot be done and won't be done. I say with this amendment that it can be done and should be done.

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

Mr. DORGAN. I am happy to yield to my colleague.

Mr. DURBIN. Madam President, I want to make sure the point the Senator has just made is driven home for those following this debate.

This administration told us we needed to invade Iraq because there were nuclear weapons there, which we cannot find.

They told us we needed to invade Iraq because there was uranium, fissile material coming in from Africa to Iraq, which now they say did not exist.

They told us we needed to invade Iraq because of weapons of mass destruction, which we cannot find.

They told us we needed to invade Iraq because of their linkage with 9/11 terrorists, which now the President has said is not a fact.

They told us we didn't have to worry about rebuilding Iraq because of all the oil revenues.

Is the Senator from North Dakota finding the same difficulty I am in following their logic? All the reasons to invade Iraq have disappeared. As I understand it, the oil is still there. The oil was supposed to be the source to rebuild Iraq. Is the administration suggesting there is no oil in Iraq?

Mr. DORGAN. No. In fact, quite the contrary. Ambassador Bremer testified that by July of next year, they will be pulling 3 million barrels a day out of the sands of Iraq. There is liquid gold under those sands. Three million barrels a day by next July will net them $16 billion a year in net export revenue from oil—$16 billion a year. That is $160 billion in 10 years. They can easily securitize a small fraction of that to fund all of the reconstruction that is necessary in Iraq. It can easily be done if there is a will to do it. But they will not do it if the President says: Let's have the American taxpayers do it.

Mr. DURBIN. If the Senator will yield for another question, if I understand this, the President and the Bush administration are asking us to borrow money from the Social Security trust fund to increase the deficit of the United States, to cut back on spending on education and health care so that we can provide reconstruction funds for Iraq which can then pump the oil and sell it and with the revenues pay off their debt to Saudi Arabia; is that the logic behind the administration's position?

Mr. DORGAN. Madam President, the two largest creditors of Iraq are Saudi Arabia and Kuwait. The Senator from Illinois is absolutely correct.

Mr. DURBIN. Through the Chair, I would like to ask the Senator, so the administration is prepared to disappoint Social Security recipients in America rather than disappoint the Saudis who loaned money to Saddam Hussein and now want to be repaid?

Mr. DORGAN. Madam President, Saddam Hussein has vanished. His government doesn't exist. The Iraqi people ought not be saddled with massive debts to countries like Saudi Arabia, some of the wealthiest countries in the world. The American taxpayer should not be told to pay for the reconstruction of Iraq, while Iraqi oil revenues are hauled off to Saudi Arabia and Kuwait.

I yield 8 minutes to my colleague from Florida, Senator GRAHAM.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I thank the Chair.

Madam President, it is a pleasure to return to this great institution at a time when we are debating a truly significant issue for the future of our Nation.

The fundamental question to me is what should be our standard in resolving the myriad of questions which surround the President's request for $87 billion in occupation and reconstruction expense in Iraq.

My answer to that question is that we should test each of these proposals against the standards of: Will this give us an honorable and an expeditious exit from Iraq? Will this contribute to our ability to leave Iraq, to take American troops out of the quagmire and the killing field which Iraq has become, but to do so with honor?

We basically have two options that are presently available to us as to how to reach that objective. One is the go-it-alone approach; that we will conduct the occupation and the reconstruction essentially alone, without significant allies. Second is that we should internationalize the occupation and reconstruction of Iraq. We should do this by increasing the control of Iraqis who have the confidence of their country men and women by involving other countries in the shared burden and responsibility of the occupation and reconstruction of Iraq, and we should be sensitive to the international presence that we are setting by our action.

Why do I believe providing these reconstruction dollars through a loan rather than through a direct grant would more likely achieve the goal of internationalization and, therefore, the goal of an honorable and expeditious exit from Iraq?

First, it will maintain American domestic support, or at least it will serve as a brake on what I sense is the increasing loss of American domestic support for the occupation and reconstruction of Iraq. We all can read the polls and see what the American people feel about this $87 billion request. They dislike it in overwhelming numbers, but there is even more than what you can state statistically. There is what you can feel intuitively.

I sense all across the country an increasing question of what are we doing in Iraq? Why are we in a situation where one American is killed and 10 Americans are maimed every day, where we are spending $1 billion every week? What is our exit strategy?

I believe this approach of providing that at least a part of these expenditures will be repaid to the American taxpayers will help to build some foundation under what now appears to be a straight tunnel toward the loss of public support.

Second, this would not further add to the national debt. We have basically three choices as to who is going to pay for this war. The first choice is our generation. We are in the war for what we consider to be important national security reasons. If that is the case, we ought to be prepared to pay for it, not ask future generations to pay for it. But last week the Senate rejected the Biden amendment which would have

caused our generation to pay for our occupation and reconstruction of Iraq. So that is off the table.

The second is, we are going to ask our grandchildren to pay for this occupation and reconstruction. If we do this, we are engaged in a sharp break with tradition and precedent.

Let me just state these numbers. The Marshall plan started in 1948. The public debt of the U.S. Government in 1948 was $216 billion. Four years later, as the Marshall plan was coming to a close, but the United States was at war in Korea, in 1952, the public debt of the United States was $214 billion. So we actually reduced the public debt of the United States during the period of the Marshall plan and the early phases of the Korean war. We are not following that precedent today. We are saying we are going to put all of these additional expenses into the most enormous annual deficits the United States has ever seen.

Finally, we should do this because it will require Iraqis pay for the reconstruction and have a substantial amount of control over the reconstruction. One of the characteristics that made the Marshall plan so successful was that while we provided funds—and incidentally, on a $1-to-$1 matching basis, not a 100-percent to 0-percent basis, as is being proposed here—we provided funds on that basis and then let the leadership of the individual countries, whether it was our allies, such as France, or enemies, such as Germany, make the judgments as to what they believed the priorities should be for the use of those funds. Here we are unilaterally deciding by action of our administration and our Congress what the priorities should be.

Finally, in another domain, I think this sets a dangerous precedent for our relations with other countries. In this same legislation, we are providing a relatively small grant to Afghanistan, both for security and for reconstruction. I think that is defensible. Afghanistan is one of the poorest countries in the world. Afghanistan is a country which is key to a victory on terrorism. But now we apply exactly the same standards to the country which sits on the second largest oil reserve on this planet and a country which, in my judgment, was not a legitimate part of the war on terror until we made it a part of the war on terror by the war itself.

We also have Mexico. In the 1990s, Mexico was in very difficult financial status. There were some who speculated it might even go into bankruptcy. We came to Mexico's financial support. How did we do it? We did it by collateralizing the future oil revenue of Mexico to pay what we had advanced to give them greater fiscal solidity during a time of great instability. How do we tell the Mexicans that when we were lending money to them, a country which in natural resources is considerably less endowed than Iraq, we are going to give it to Iraq as a straight grant but for Mexico it was a loan with their oil revenue as the collateral for repayment?

The question that is asked all over this country is, Why can we rebuild the roads, the bridges, the schools, the electric grid of Iraq, but we cannot do it in the United States? Why can we do it as a grant to one of the richest countries in terms of petroleum in the world, which will never be repaid to help us rebuild our own bridges, roads, and schools? This represents a key turning point, in my judgment, for the beginning of the 21st century. Will Iraq be the Germany of the 1950s or will it be the Vietnam of the 1970s in terms of the United States?

I believe voting for reasonable burden sharing between Iraq and the United States, and other proposals that will share the burden on a more international basis, will be a key to answering that question.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from North Dakota.

Mr. DORGAN. I yield 7 minutes to the Senator from Illinois.

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

Mr. DURBIN. Mr. President, I thank the Senator from North Dakota for yielding and I rise in support of the amendment he has offered.

Also, I say welcome back to Senator BOB GRAHAM of Florida. We are glad to have him off the trail and back in the Senate where we need him.

This is an interesting issue to bring to the American people because it is an issue where we ask this administration to stand by its own promises, to stand by its own words, and they cannot. They cannot because as recently as 6 months ago, the leaders of this administration said we would not be on the Senate floor today debating an $87 billion bill. They told not only the Senate and the House and the American people, they told the world that Iraq had the resources to take care of itself. It was part of the buildup to the war, a war which was built on false premises of nuclear weapons that did not exist, fissile material from Africa that did not exist, biological and chemical weapons which have not been discovered, and a link with al-Qaida which cannot be substantiated.

All of these were part of the rationale for invading Iraq with the coalition of the willing, which contained Great Britain and precious few other countries with major resources or troops. So we invaded Iraq and then said to the American people: Do not worry about after the war. The Iraqis are really rife with all sorts of oil resources and revenues. They can take care of themselves.

I am not making this up because if we followed the statements made by Paul Wolfowitz, the architect of the Iraq strategy, this is what Mr. Wolfowitz said in March:

> . . . the oil revenues of that country—
>
> Iraq—
>
> could bring between $50 and $100 billion over the course of the next two or three years. . . . We're dealing with a country that can really finance its own reconstruction, and relatively soon.

Hello. Deputy Secretary Wolfowitz, how can you rationalize coming to Congress 6 months later and asking for $20 billion after you told us that Iraq could finance its own reconstruction?

He was not alone in these pronouncements. This is Secretary of Defense Don Rumsfeld saying at about the same time:

> I don't believe the United States has the responsibility for reconstruction in a sense . . . And the funds can come from those various sources I mentioned: frozen assets, oil revenues and a variety of other things.

What they were trying to do was paint a picture to the American people that there was no pain, all gain: We will remove Saddam Hussein and, frankly, the world will greet us as heroes, as will the Iraqi people, and then they will use their revenues to rebuild the country and prove you can have a much better government in Iraq.

I certainly hope for the Iraqi people they do have a better government, but should it not be at their expense rather than our expense?

The point that was made by the Senator from North Dakota is a telling point. We are borrowing money in the United States from Social Security, from American taxpayers, and from our children; we are increasing the deficit of this country to come up with $87 billion, $20 billion of which is going to rebuild Iraq.

We are going to have that debt when it is over, according to President Bush and his supporters on the Senate floor. Yet the reason we cannot ask Iraq to shoulder this burden itself, despite all of these pronouncements from Secretary Rumsfeld and Assistant Secretary Wolfowitz, is that Iraq has its own obligations to countries such as Saudi Arabia and Kuwait.

Look at the debt of Iraq that we are protecting by borrowing money from Social Security. Their biggest creditors include Saudi Arabia, the gulf states, Kuwait, Russia, Japan, France, and Germany. Frankly, I care less about the royal family in Saudi Arabia than I do about American families counting on Social Security.

Why doesn't the President? Why doesn't the President of the United States believe that Saudi Arabia, which trusted Saddam Hussein to lend him millions of dollars, should frankly be the ones to lose in any bargain about Iraq's future? No. From the Bush administration viewpoint, the losers should be the American taxpayers, our children, and people counting on Social Security.

So the Senator from North Dakota asked an obvious question: If they have all of this oil revenue, why can't they pledge that revenue to raise the money to rebuild their own country? It is just that simple. Someone has to borrow the money to rebuild Iraq. It will either be the American taxpayers or the

people of Iraq. I think the answer to that particular challenge is very obvious, and the Senator from North Dakota has hit the nail on the head with his amendment.

Let me add something else. This administration has really been floundering when it comes to the plans after the invasion of Iraq. I give credit to the military. In 3 weeks they did an extraordinary job. Since then, things have been just fumbled around. We went from General Garner to Ambassador Bremer, and while we were out last week and the Senate was back home, Condoleezza Rice was given the authority for rebuilding Iraq. This is getting hard to follow. It frankly betrays the fact that this administration does not know which way to head.

Here is the fundamental problem: We want Iraq to be a stable and secure nation. We would like to see them move toward self-government and toward a market economy, but all of this will take an enormous amount of money and time, and an enormous departure from a country which has no history of any of the things I just mentioned.

Iraq was created by the British colonial empire. They drew a line on a map and said: We will call this Iraq. Up until that point in time, there was little to trace the history of anything called Iraq. Now we are trying to make this into a nation state. First we have to establish not only a national identity that is not from the command and control of a dictator, but also we have to establish an economy that can build a middle class that can participate in democracy as we know it. This is a long, expensive process.

Who should pay for it? American taxpayers or the people of Iraq? I think the answer to that question is very obvious. I hope my colleagues, who feel duty bound to stand by the Bush administration no matter what, will only stand by the statements made by the Bush administration to the American people 6 months ago. If the people in this Chamber will stand by the promises of Secretary Wolfowitz, Vice President CHENEY, and Secretary Rumsfeld, then Senator DORGAN is going to be successful. However, if this turns out to be a partisan rollcall, take it or leave it, you are with the President or not, then the losers are going to be families across America. Families are going to see Social Security trust funds used to build Iraq while oil revenues in Iraq are used to pay off the Saudis who loaned money to Saddam Hussein. That I think is an outrageous outcome.

I think the Senator from North Dakota has it right. We have done a great deal for Iraq to date. We are spending $1 billion a week. We have lost over 300 brave American soldiers. Walter Reed Hospital, not far from Capitol Hill, has rooms filled with soldiers, men and women, who went to Iraq who came back wounded with grievous injuries. We have given a lot. We should not ask the American taxpayers to give up more.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Let me inquire of the Senator from Mississippi. We have used—might I ask how much time we on this side have used? We have had several speakers. Might I inquire?

The PRESIDING OFFICER. Twenty-seven minutes.

Mr. DORGAN. I don't know whether the Senator from Mississippi intends to speak or has speakers at this point. If he does not intend to speak, I will make some additional comments. If he does, I certainly will yield the floor to him.

The PRESIDING OFFICER. The Senator from Mississippi?

Mr. DORGAN. I was inquiring; I will yield the floor to the Senator from Mississippi if he is intending to speak.

Mr. COCHRAN. Mr. President, we have a certain amount of time under the agreement. We will use that time when we choose. I do not intend to use any at this time. If you want to continue to debate your amendment, it is your amendment. I am for the committee bill. I think the committee made the right decision. I am going to say that and cite the provisions of the report underlining the rationale for the bill and the support we are trying to provide the President. So you have the laboring oar, in my view.

Mr. DORGAN. Mr. President, I thank the Senator from Mississippi. I am well aware it is my amendment, of course. Normally in the debate on amendments, we try to go back and forth to be fair. I was simply inquiring whether he intended to speak. He apparently will speak at another time.

I will make a couple of additional comments. We have some other Senators who are coming to the floor to comment as well.

Let me describe in more detail the comments by the Vice President because my colleague indicates the administration is very much opposed to this.

The administration has not been opposed to it in the past. In fact, they represented to the American people that Iraq oil shall be used to reconstruct Iraq, so apparently it is a changed position. Let me describe in more detail the comments of the Vice President on ''Meet The Press.'' This occurred in March of this year. Quoting Tim Russert, he says:

> Every analysis said this war itself would cost about $80 billion, recovery of Baghdad, perhaps of Iraq, about $10 billion per year. We should expect as American citizens that this would cost at least $100 billion for a two-year involvement.
>
> Vice President Cheney: I can't say that, Tim. There are estimates out there. It's important, though, to recognize that we've got a different set of circumstances than we've had in Afghanistan. In Afghanistan you've got a nation without significant resources. In Iraq you've got a nation that's got the second-largest oil reserves in the world, second only to Saudi Arabia. It will generate billions of dollars a year in cash flow if they get back to their production of roughly three million barrels of oil a day, in the relatively near future. And that flow of resources, obviously, belongs to the Iraqi people, needs to be put to use by the Iraqi people for the Iraqi people and that will be one of our major objectives.

That is the Vice President.

Ambassador Bremer said in the last 2 weeks they will be producing 3 billion barrels a day in July. That is what he testified before the Appropriations Committee. If that in fact is the case, apparently there has been a change of mind here in the administration about whether Iraq oil should be used for Iraq reconstruction. It was alleged by Secretary Wolfowitz it should be, it was alleged by Secretary Rumsfeld it should be, by the Vice President it should be and would be. Now, apparently, they have changed their mind.

Second Rumsfeld also said to me in testimony:

> What that country is suffering from [speaking of Iraq] is 30 years of a Stalinist-type economy and starvation of the infrastructure of the needed investments. That is not the obligation of the United States of America to repair.

So the 20-plus-billion-dollars request we have for reconstruction of Iraq includes the replacement and the rehabilitation of power distribution networks that were in a highly deteriorated condition before the war, $50 million to restore marshland water projects, $125 million to restore railroad tracks that suffered from severe neglect. Locomotives and railcars were in a deplorable state; backup generators were inoperative due to lack of maintenance and spare parts.

But more Members of the House of Representatives of the majority party saw fit to eliminate some of them—$9 million to study a ZIP Code for the Iraq Government or for the country of Iraq; $50,000 apiece for garbage trucks, $150 million for a children's hospital, and the list goes on and on.

Clearly, some of it is not urgent. Some of it is not an emergency. In my judgment, it ought to be paid for with Iraqi oil. That was what was promised and alleged by the Vice President, by the Secretary of Defense, and the Assistant Secretary of Defense.

We are told by the President and others as well—the Secretary of State and Secretary of Defense—the question is, What will strengthen the Iraq economy? That is an important question. I believe reconstruction will strengthen the Iraq economy. I believe that ought to be done and paid for with Iraq oil.

But a more important question is, What will strengthen the U.S. economy? We are borrowing $20 billion. Will borrowing $20 billion and sending it to Iraq so Iraq can pump oil and send cash to the Saudis and Kuwaitis strengthen the United States economy? Absolutely not. That is why I offer this amendment. This amendment failed in the Appropriations Committee by a vote of 15 to 14.

I don't diminish the arguments of those who oppose it, but, frankly, I think they are wrong. I believe this was represented by the administration

to be the right course. I now offer it as an amendment and will hope when we have a vote at 6:30 it will prevail.

I yield the floor and I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, I am waiting for a couple of speakers whose offices have told me they are on the way. It is my understanding from the Senator from Mississippi that he or others will be speaking as well. I will put us in quorum call. I ask unanimous consent that the quorum call be charged equally against both sides.

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

Is the Senator from North Dakota suggesting a quorum call?

Mr. DORGAN. Yes. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. CLINTON. 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. DORGAN. I yield 8 minutes to the Senator from New York.

Mrs. CLINTON. Mr. President, I come to the Senate in support of the Dorgan amendment to this supplemental appropriations. I come also having been the beneficiary of the week-long recess, traveling throughout my State talking to many people, hearing what is on their minds, trying to answer their questions and drawing some conclusions about where we stand in our country on the important issue concerning the mission in Iraq and the President's request for $87 billion. I talked with New Yorkers from Syracuse to Staten Island. At every stop, I had questions and concerns expressed about this request for $87 billion.

New Yorkers are concerned that this money is being asked for and will be spent with no real plan for how we move toward the goal in Iraq to create an independent, functioning government that is able to stabilize the situation there with adequate security, begin providing services to the Iraqi people, and move toward self-sufficiency.

I also was faced with many questions about how we intend to pay for our commitment to Iraq and to our military forces since we are faced with record deficits and increasing debt. Time and time again, I heard my constituents echo the concerns of the senior Senator from Florida, Mr. GRAHAM, who pointed out eloquently in the Senate a short while ago how in effect we are asking our children and their generation to pay for the decisions we make today because we refuse to take responsibility for them.

This is a difficult situation to describe and explain to my constituents. I am asked how we can ask our taxpayers to contribute over $20 billion for the reconstruction of Iraq when that was never presented to the American public or even to the Congress. Time and time again the Congress was told by administration officials that it would not cost very much money, it would not take very long, and besides, we could expect Iraqi oil revenues to pay for Iraqi reconstruction, and other nations would join us in shouldering the burden.

Now, of course, we are told by the administration not to expect very much from anyone else, and we cannot even look to the Iraqi oil revenues at some point in the future. We should not be asking anything of the Iraqi people and their soon-to-be new government with respect to the American taxpayers and to the sacrifice that our American men and women in uniform have made for Iraq's freedom.

The administration argues that this $20 billion must be given in grants and not loans. The logic escapes me. Part of this money will go to rebuild the oil industry of Iraq. There are estimates ranging from hundreds of billions of barrels of recoverable oil to a trillion. There is no doubt that if we get this oil industry up and going, Iraq stands to be one of the richest nations in the world. The per capita income can be expected to shoot past most of the rest of the inhabitants of this globe. And I am all for it. That is wonderful. But not at the expense of the American taxpayer and not at the expense of an increasing deficit and debt burden on our children.

I am wondering how we can justify putting money in a grant to rebuild an oil industry that will start producing revenues that will then be used in part to pay back nations in the gulf and in Europe and elsewhere who have lent tens of billions of dollars to the former regime to do things like build palaces. Those who worked with, collaborated with, and supported the Saddam Hussein regime could conceivably be paid back from the fruits of the labor of American taxpayers who have gotten the oil flowing again. I, for one, cannot explain that in any audience I find myself.

Some in the administration have argued our aid to Iraq is analogous to the Marshall plan. But, of course, we know it is not.

That is a good rhetorical point to make, but it is not historically accurate. The U.S. did provide funds to both allies and enemies after World War II based on a matching program of contributions from those nations. We did not offer reconstruction funds without qualification. We required a commitment for some contribution from the receiving nation.

I saw a list of talking points distributed by the administration, apparently out of the Pentagon, that listed all the reasons why loans were a bad idea: We would not want any other entity, such as the new Iraqi Government or the Coalition Provisional Authority, to be deciding where any of the money went; we would not want any, other than American, contractors to get any of the contracts; we would not want anybody to think we were in it just for the oil, which they might somehow believe if we had some responsible, mature relationship that expected some repayment.

I read those talking points. I looked at those arguments, and, frankly, they are not very convincing. I am still having trouble trying to figure out how we went from a position in the spring where administration official after administration official would not tell us how much it was going to cost, would not tell us how long it was going to take, would not tell us how long we were going to be there, and always reassured us that it was going to be paid for with the revenues from Iraqi oil once it began flowing, to where we cannot even ask for any kind of repayment.

The PRESIDING OFFICER. The Senator has consumed the 8 minutes yielded to her.

Mrs. CLINTON. Mr. President, I ask unanimous consent for 1 additional minute.

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

Mrs. CLINTON. I strongly support the Dorgan amendment. I think it is the right thing for Iraq. I think it is the right thing for our country. It sets the right tone about how we are going to be dealing with this situation going forward. It lays down a marker that we are willing to shoulder this burden, but we expect at some point in the future for the American taxpayers of this or the next generation to be given some repayment opportunity from a new nation that we helped to create that, hopefully, will have the kind of future we are counting on and that many of us support.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from North Dakota no longer has adequate time to suggest the absence of a quorum.

The Senator from Mississippi.

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

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

Mr. COCHRAN. I yield 10 minutes to the distinguished Senator from Arizona, Mr. MCCAIN.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise in opposition to the Dorgan amendment. It is unwise and uncharacteristic of the greatness and strength of America and in many ways could increase the risk that we may cause to young Americans who are fighting in defense of freedom in Iraq and trying to help that country begin the process of democracy and a free society. It is an extremely difficult task and one which will require a long period of time.

I don't share the view of some that the situation in Iraq is bright and wonderful. I don't agree with the opinion of some others who think that things are in a very bad state. I think progress is being made. In the northern part of Iraq there is real stability. In the southern part of Iraq there is significant progress.

All you have to do is pick up a newspaper or turn on the television or radio and hear that things are not so good in some parts of the country, particularly in the area we refer to as the Sunni Triangle. Every day there is some kind of attack mounted against American troops, against installations, car bombs. Our military leaders have stated that the attacks, primarily aimed at American soldiers and installations, are becoming more and more sophisticated.

In my view—and my view is shared by many others who are more expert and more knowledgeable than I—the battle for the hearts and minds—dare I use that phrase—in Iraq is still going on. We are winning that battle in some parts of Iraq. In other parts, it is still up for grabs.

Those who are the former Baathists, the terrorists, the extremists, this rather unusual combination of opponents of the United States and opponents of the democratization of Iraq, are echoing a similar theme: The United States is not in Iraq to free the Iraqi people. The United States is in Iraq for the oil.

That theme is being echoed and reechoed throughout the Middle East, not just in Iraq but in every extremist Muslim madras in the Middle East, every dictatorship, in every oppressive regime that recognizes if democracy and freedom comes to Iraq, then their days are numbered, they are through, they are finished because we can prove in Iraq that democracy and a free and open society can grow and prosper anywhere in the world, including the Middle East.

Here is what they are saying. They are saying: Here is the history of the United States involvement with Iraq. All during the 1980s, the United States Government propped up Saddam Hussein and did a lot of business with him. He had a war with Iran. We took his side in the war with Iran. In 1991, in the gulf war, we defeated Saddam Hussein soundly and we told the Iraqi people that he would be gone. He wasn't gone. In fact, he went into these very same areas and slaughtered thousands of people as he reasserted his grip on power. I have seen one of the mass graves. No, Saddam Hussein, they are saying, was left in power by the United States of America and allowed to freely oppress the people of Iraq and brutally repress and murder and commit unspeakable atrocities on the Iraqi people, when the United States told the Iraqi people that he would be gone.

They are also saying: Do you know why the economic conditions in Iraq were so terrible all during the 1990s? Do you know why you have an airport out here at Basra that is in mint condition but has never been used? Because of American economic sanctions imposed through the United Nations on Iraq.

Now the United States finally overthrew Saddam Hussein and they are going to demand our oil. In return for money, they are going to take our oil, the oil which we need, we, the Iraqi people, in order to rebuild the infrastructure of our country.

Mr. President, that argument is going to gain traction in some parts of Iraq—that the United States came for the oil and now we are asking for them to pay up. If we are concerned—and I know we all are—about the lives and safety of the young men and women serving in Iraq in the military, I can tell you this will put them in greater danger. If the opponents—this unusual combination of extremists and Baathists and terrorists, and this unusual but lethal cocktail of opponents of Iraqi freedom—are given additional propaganda, then I think it is going to be obviously very harmful to our effort to democratize and free Iraq.

I ask my colleagues to consider the fact there is no possibility that the Iraqi people and government—when it comes into being—could pay back any debt in the short term. It is not possible. If we want to condition future aid at a future time on a loan, or some kind of repayment, then I think it should be discussed and debated given the climate of the times at that time. But to at this moment in time, when we still have not gained the support of the Iraqi people that we need not only to ensure further democratization and freedom of Iraq—to protect the lives of the young men and women who are serving so nobly in Iraq, let's not do it at this time. Let's reject this amendment.

I don't impugn the motives or the patriotism of the sponsors of this amendment. I think it is hard to answer to our constituents why we are spending so much money there and not getting it back. I understand that and sympathize with that argument. One of my colleagues recently talked with great emotion about the loss of jobs in his State. These are all compelling problems. But I don't see how anyone could argue coherently that, at this moment, to send the wrong signal would be the right thing to do to achieve any of those goals.

I repeat that the battle is still on for the hearts and minds of the Iraqi people. We are a great and generous nation. We have proven that time after time after time. I think it is time for this body to express that generosity, that commitment—which only the United States has ever really displayed—to freedom and democracy in Iraq and tell these people we are going to do everything we can to help rebuild their country, we will help them on the road to freedom and democracy, and at the end of the day, years from now, that gratitude on the part of the Iraqi people will be displayed to us in many ways, that will far exceed any benefits that might be accrued from this being some kind of a loan that would be paid back.

I hope my colleagues will understand the seriousness of this issue. It won't stop us from going about the work of securing the peace in Iraq, but it will set it back and it will send the wrong signal at the wrong time about the United States, true commitment in this country.

Mr. President, too many young Americans have already made the supreme sacrifice for us to go back on that commitment now.

I yield the floor.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Mississippi is recognized.

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

To refresh the memory of the Senate, it is good to look at the exact wording of this amendment that was offered by the Senator from North Dakota and others. The amendment provides that:

> The President shall direct the head of the Coalition Provisional Authority in Iraq, in coordination with the Governing Council of Iraq or a successor governing authority in Iraq, to establish an Iraq Reconstruction Finance Authority. The purpose of the Authority shall be to obtain financing for the reconstruction of the infrastructure in Iraq by collateralizing the revenue from future sales of oil extracted in Iraq. The Authority shall obtain financing for the reconstruction of the infrastructure in Iraq through
>
> (1)(A) issuing securities or other financial instruments; or
>
> (B) obtaining loans on the open market from private banks or international financial institutions; and
>
> (2) to the maximum extent possible, securitizing or collateralizing such securities, instruments, or loans with the revenue from the future sales of oil extracted in Iraq.

My personal impression from the reading of this amendment is that the $21 billion that is struck from the bill by this provision—because the amendment begins by striking that $21 billion and substituting this provision that I just read. My impression is that this is smoke and mirrors, pure and simple. What the amendment would really do would be to prevent making available to the Coalition Provisional Authority, trying to guarantee the reconstruction of Iraq and the possibility for the Iraqi people to live in peace and security and in an environment where democracy would be possible, self-government probable—that you could do it for nothing. That is what the assumption

is that underlies this amendment. The assumption is that you can do it for nothing. No private bank is going to make a loan in the environment that exists today in Iraq, with the threats to the security of the people who are cooperating in the reconstruction of Iraq, the threats to the Iraqi people who are cooperating with the coalition to reconstruct Iraq—as they are. People are being shot at in the streets. There is an atmosphere where there is a great deal of fear and suspicion.

We have to, if we are to succeed in helping create this new Iraq—which I applaud the President for trying to do; it will be a contribution to the peace and stability of not only that region but the world, in my opinion. If we want to support the President's efforts, we will vote against this amendment and permit the funds that were approved by the Appropriations Committee when it rejected this amendment in the committee after hearing testimony from an array of witnesses who are familiar with the situation in Iraq. The committee recommended the approval of these funds—the total appropriation asked for by the President—for the military operations, the increase in the equipment, ammunition, other resources that our troops need to protect themselves and to carry out their mission and to bring it to a successful conclusion. Those funds are included in this bill, but also additional funds that are the target of this amendment, which will help in the reconstruction and make it possible to reconstruct the country so that the people of Iraq can take care of themselves in a military sense, with officers involved in police activity, patrolling the streets to help guarantee that those who are engaged in positive, constructive work there in Iraq can do so with security and without fear of their lives.

That is what the bill is for. That is the goal of the mission of our troops, working with the other nations. Some 30 other nations are actively involved with people there, risking their lives trying to help this country rebuild itself from the ravages of the Saddam Hussein regime.

So if we vote for this amendment and if we reject the decision the Appropriations Committee made, we are putting in jeopardy all of the effort and all of the investment that has gone on, all of the risks taken by so many to make this a successful operation to help establish an atmosphere for freedom, democracy, self-government, for an economy that can be successful in Iraq so that we can see our direct support of this new Coalition Provisional Authority and the government that will be formed as a result of its efforts.

I am hopeful we will recognize the fact that we had solid convincing testimony before our committee at the hearings. Ambassador Bremer testified, the Secretaries of State and Defense testified, and the Chairman of the Joint Chiefs of Staff, General Abizaid, in charge of the military operation there, all in support not just of the military aspect, the $80 billion plus for military activity in direct support of our military forces, but the additional funds which are the target of this amendment.

Schools have started throughout Iraq. Hospitals have been reopened throughout Iraq. That will all come to an end. The continuation of the recovery effort and the progress being made will be put in jeopardy if these funds are not approved.

Not only are banks unwilling to make direct loans to this new government under the security situation that now exists, but nobody will securitize or collateralize future revenues from any source, oil or anything else. To assume this oil has a great monetary value right now to anybody is just a false assumption. It is in the ground, right, but it is not being produced. It is not being transported or marketed in sufficient quantities that anyone would be willing to take the risk of making a loan to a provisional authority created at this time in Iraq. It is just not possible to expect that.

Nobody testified before our committee that I can remember saying that would be a good idea. I don't recall a single financial expert coming in to dispute this administration's recommendation that funds be made available to help reconstruct the capacity to produce oil and to get Iraq's economy moving. Nobody suggested an alternative, certainly not this one. I don't recall hearing a witness. Maybe in the time remaining to the Senator from North Dakota he can cite that effort, he can cite that testimony.

We heard political arguments preying on the suspicions of others, preying on the political aspirations of others who may challenge the administration's policies, and we can have that debate, but this is not a good substitute for the provisions that we have in the bill today before the Senate.

Ms. LANDRIEU. Will the Senator yield?

Mr. COCHRAN. We have looked through the administration's request very carefully, and there were some disagreements about specific items. The other body has completed action in its committee on this appropriations request, and there are some differences. We will have an opportunity in conference to look at some of the specific suggestions the House has made, and I think they have made some good ones. We will work together with our House colleagues and counterparts to prepare a conference report that we hope will meet the approval of the Senate, as well as the House, and that the President can sign, and we can move forward.

This is a smoke-and-mirrors amendment, Mr. President, purely and simply. You cannot have it both ways. As I remember, one of my good friends on the other side, after looking at a proposal that we had before us one time, said: This is like smoke and mirrors. In fact, there is so much smoke; you can't even find the mirrors; you can't see the mirrors.

I am not trying to be too cute. I don't want to try to create that impression, but I am very serious in my suggestion that it would be a big mistake if we adopted this amendment. I hope the Senate will reject the amendment. The committee looked very carefully at the amendment when it was offered in our markup session and rejected the amendment.

Ms. LANDRIEU. Will the Senator yield for a question?

Mr. COCHRAN. I am hopeful, as we proceed to a final discussion, that the Senate will look at the testimony we had before our committee, consider carefully the implications of denying these funds to the administration and the fact that it would contribute to a greater degree of instability in that country with a greater degree of risk for our troops who are now there, the civilians who are there from some 30-odd countries trying to be helpful in the reconstruction of this country. It would create a much more dangerous situation, and I don't think we want to be a party to that. That would be a result, unintended of course, that would flow from the adoption of this amendment.

I reserve the remainder of the time on our side.

The PRESIDING OFFICER. Who yields time?

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator from Louisiana?

Ms. LANDRIEU. I believe we have 1½ minutes. I wanted to ask the Senator——

The PRESIDING OFFICER. Who yields time?

Ms. LANDRIEU. I ask unanimous consent to speak for 5 minutes.

Mr. COCHRAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. Who yields to the Senator?

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from North Dakota has 1 minute 37 seconds.

Mr. DORGAN. My hope had been the normal courtesy of the Senate to have the offeror of the amendment close debate. That may not be possible because of the strategy of the quorum call here, so I don't know what the intention of the Senator from Mississippi is. In most cases, those who offer the amendment are allowed to close debate. I hoped to do that for 5 minutes. If I am prevented from doing that, we will deal with that at a later time.

But in the remaining time, I wish to make one point. The Senator from Mississippi says he didn't hear any witnesses describe this approach to reconstruction. You know why they didn't hear any witnesses? Because Senator BYRD asked again and again to bring

witnesses before the committee and my colleagues on the other side of the aisle decided they would not allow it to happen. They would not allow other witnesses to come before the committee. So it is curious now to hear people complain about not hearing other witnesses when they, in fact, prevented them from testifying before the committee.

I yield the floor, and reserve the remainder of my time.

Mrs. FEINSTEIN. Mr. President, as we continue to debate this supplemental, we continue to find ourselves dancing around a very important question that we've been asked—the one that Senator DORGAN raises today: how is reconstruction in Iraq to be paid for?

First, let me say that it is clear that we unequivocally support our troops and nearly all of us support their mission. I voted to support the President in this effort a year ago this month and continue to support our efforts to liberate Iraq from the terror that continues to grip its citizens.

But, the answer to the question of cost is much less clear.

Last week I came to the Floor in support of Senator BIDEN's amendment to rollback a small portion of the President's May 2003 tax cut. Senator BIDEN's amendment would have paid for this supplemental while protecting every American from undue hardship.

That amendment failed to gain the necessary support that would have made it part of this supplemental. And, those who voted against that amendment have yet to tell the rest of us how it is that we can afford to spend $20 billion on Iraqi reconstruction and pass that cost onto our children.

So, as of today, we still have not figured out how to pay for our efforts in Iraq.

For a moment, let us set aside the portion of the supplemental that I believe has nearly universal support here in the Senate—that being the portion to pay for ongoing military operations.

Let us focus instead on that portion of the supplemental that deals exclusively with reconstruction in Iraq.

The administration would like us to approve more than $20 billion for projects we all consider necessary for any fledgling nation, but should the American public or the Iraqi people pay for these types of improvements? Should the American people be paying for pickup trucks, radios and computer training? Remember, these are improvements that were, in large part, needed prior to our arrival in Iraq.

Let me be clear, I am not questioning the need for these improvements, but rather who ultimately pays for them.

In February 2003, and on at least three other occasions, we were told by the White House that ''Iraq, unlike Afghanistan, is a rather wealthy country. Iraq has tremendous resources that belong to the Iraqi people. And so there are a variety of means that Iraq has to be able to shoulder much of the burden for their own reconstruction.''

The White House knows, as we do, that Iraq is in control of the second largest proven oil reserve on the planet and modern financing techniques will allow Iraq to leverage these natural resources to rebuild its nation.

Senator DORGAN's amendment encapsulates an idea that is proven and at work all over the globe. The worldwide securitization market is in excess of $2 trillion.

We have heard from several experts, including the Export-Import Bank, that securitization is workable and, in this case, desirable.

Securitization is the most legitimate way to provide reconstruction dollars and to foster a sense of Iraqi ownership in the outcome of this process of liberation, and I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time? Time will run equally against both sides if no side yields time.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, can you tell me how much time is remaining?

The PRESIDING OFFICER. The Senator's time has expired. All remaining time is controlled by the Senator from Mississippi.

The PRESIDING OFFICER. The hour of 6:30 having arrived, the Senate will move to a vote in relation to the amendment of the Senator from North Dakota.

Mr. STEVENS. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 1826. The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

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

[Rollcall Vote No. 380 Leg.]

YEAS—57

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

NAYS—39

Akaka	Durbin	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham (FL)	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Hollings	Nelson (NE)
Breaux	Inouye	Pryor
Byrd	Jeffords	Reed
Campbell	Johnson	Reid
Clinton	Kennedy	Rockefeller
Conrad	Landrieu	Sarbanes
Corzine	Lautenberg	Schumer
Daschle	Leahy	Stabenow
Dorgan	Levin	Wyden

NOT VOTING—4

Edwards	Kohl
Kerry	Lieberman

The motion was agreed to.

Mr. STEVENS. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I strongly support the amendment of Senators DASCHLE and GRAHAM of South Carolina to close an unfortunate and unacceptable gap in health insurance coverage for families of Reserve and Guard members called up for active duty. The amendment is especially important now, when so many Reserve and Guard members are being called up for duty in Iraq.

We all know that our Armed Forces are stretched thin. They are paying a heavy price for the Bush administration's gross miscalculation about Iraq. The burden is now falling heavily on the Reserve and National Guard as well. Over 215,000 Guard and Reserve men and women have not been mobilized to ease the burden on our regular forces in Iraq and Afghanistan, and in homeland security as well.

One challenge they should not have to face is maintaining health insurance for their families. The immediate problem is that, too few private employers are willing to continue coverage for Guard and Reserve employees and family members when the employees are activated.

According to the General Accounting Office, nearly 80 percent of all reservists have health coverage through their jobs in the private sector. They far prefer to continue that coverage when they are activated. The military's TRICARE coverage works well for the reservists themselves when they are activated. But it is often not practical for their family members, since their homes are often too far from the military bases where the TRICARE doctors have their medical practices and doctors in the area near their homes often do not accept TRICARE coverage.

Even when TRICARE coverage makes sense, it is often difficult to transfer to TRICARE for a year and then transfer back to their employer-sponsored plan after their deactivation, especially if they have a so-called preexisting condition that could make them uninsurable.

I recently met with an Air Force family in Boston who had lost their health care as a result of the mobilization for Iraq. The family joined TRICARE, but few physicians and even fewer specialists were willing to take their insurance.

Clearly, we need to do more to guarantee that good health insurance coverage is available. All our military families, including members of the Reserve and Guard deserve good coverage. We need to do everything we can to avoid unnecessary upheaval in the lives of these families who are sacrificing so much for our country.

I thank my colleagues for their support of this proposal to make TRICARE available to Reserve and Guard personnel and their families. It is a problem we should have corrected long before now and we could have avoided this sudden crisis for so many of these families.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I would like to yield to the Senator from Nevada for purposes of offering some amendments, and then I would like to get a time agreement, if we can, on the amendments that we are going to lay down and debate tonight.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if I could respond to my friend, the manager of the bill, I am going to send a couple amendments to the desk. Thereafter, Senator CORZINE is going to offer an amendment, and he wishes 12 minutes tonight. The Senator from Rhode Island, Mr. REED, is going to offer an amendment. He is going to speak for up to 20 minutes.

Mr. STEVENS. Mr. President, we are preparing a unanimous consent request. May we——

Mr. REID. Mr. President, I am advised Senator DURBIN wants to lay down an amendment following Senator REED and wants to speak for 10 minutes.

Mr. STEVENS. Mr. President, I would like to start the process of having amendments offered from this side, too. So we are going to have two from that side. Can we reserve a time for people to offer amendments over here and decide about—I do not have any problem with Senator DURBIN offering an amendment, but the order of presenting them we will decide tomorrow.

Mr. DURBIN. Absolutely.

Mr. STEVENS. Let me yield to the Senator to offer amendments.

And may I ask Senator CORZINE to hold off until we get an agreement concerning these two amendments we are going to consider?

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 1835

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator REID and Senator LINCOLN.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside, and the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mrs. LINCOLN, proposes an amendment numbered 1835.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability)

At the end of title I, add the following:

SEC. 316. (a) RESTORATION OF FULL RETIRED PAY BENEFITS.—Section 1414 of title 10, United States Code, is amended to read as follows:

"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

''(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

''(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

''(d) DEFINITIONS.—In this section:

''(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

''(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.''.

(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.—Sections 1413 and 1413a of such title are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

''1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.''.

(d) EFFECTIVE DATE; PROHIBITION ON RETROACTIVE BENEFITS.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the first month that begins after the date of the enactment of this Act.

(2) RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date under paragraph (1).

AMENDMENT NO. 1836

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I send another amendment to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1836.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of Congress on damages caused by the regime of Saddam Hussein during the First Gulf War)

On page 22, between lines 12 and 13, insert the following new section:

SEC. 316. (a) Congress makes the following findings:

(1) During Operation Desert Shield and Operation Desert Storm (in this section, collectively referred to as the ''First Gulf War''), the regime of Saddam Hussein committed grave human rights abuses and acts of terrorism against the people of Iraq and citizens of the United States.

(2) United States citizens who were taken prisoner by the regime of Saddam Hussein during the First Gulf War were brutally tortured and forced to endure severe physical trauma and emotional abuse.

(3) The regime of Saddam Hussein used civilian citizens of the United States who were working in the Persian Gulf region before and during the First Gulf War as so-called human shields, threatening the personal safety and emotional well-being of such civilians.

(4) Congress has recognized and authorized the right of United States citizens, including prisoners of war, to hold terrorist states, such as Iraq during the regime of Saddam Hussein, liable for injuries caused by such states.

(5) The United States district courts are authorized to adjudicate cases brought by individuals injured by terrorist states.

(b) It is the sense of Congress that—

(1) notwithstanding section 1503 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 579) and any other provision of law, a citizen of the United States who was a prisoner of war or who was used by the regime of Saddam Hussein and by Iraq as a so-called human shield during the First Gulf War should have the opportunity to have any claim for damages caused by the regime of Saddam Hussein and by Iraq incurred by such citizen fully adjudicated in the appropriate United States district court;

(2) any judgment for such damages awarded to such citizen, or the family of such citizen, should be fully enforced; and

(3) the Attorney General should enter into negotiations with each such citizen, or the family of each such citizen, to develop a fair and reasonable method of providing compensation for the damages each such citizen incurred, including using assets of the regime of Saddam Hussein held by the Government of the United States or any other appropriate sources to provide such compensation.

Mr. REID. Mr. President, there is a unanimous consent request being typed now, but for the information of Senators, what we would like to do tonight on the first two amendments we have spoken about, the Corzine and Reed amendments—the majority has had an opportunity to review those amendments. They know what is in those. I do not think we are in a position at this time to make an agreement on the amendment by the Senator from Illinois because they have not seen his amendment.

Mr. STEVENS. Mr. President, I have no problem with Senator CORZINE, Senator REED, and Senator DURBIN offering their amendments, but in the line here of being pending, of amendments being set aside temporarily, I would like the right tomorrow to suggest the order in which these will be presented following the votes on Senator CORZINE's and Senator REED's amendments.

Mr. REID. I think that is appropriate.

Mr. STEVENS. It is just an understanding. I do not ask unanimous consent.

Mr. President, I now ask unanimous consent that when the Senate resumes consideration of the Iraq supplemental on Wednesday, there be 4 minutes equally divided prior to the vote in relation to the Corzine amendment No. 1811; provided further that following that vote there be 7 minutes for debate in relation to the Reed amendment No. 1834, with 5 minutes under the control of Senator REED and 2 minutes under the control of the chairman; further, that following that debate the Senate proceed to a vote in relation to the Reed amendment, with no amendments in order to either amendment prior to the votes.

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

Mr. STEVENS. Mr. President, as I understand it, we have announced there will be no more votes tonight. Senator CORZINE will offer his amendment first, and then Senator REED will offer his amendment. We will vote on those amendments tomorrow. I am informed there probably will be a morning hour after our convening at about 9:30. We will announce that schedule later. That means the first vote will take place sometime around 10:40.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New Jersey.

AMENDMENT NO. 1811

Mr. CORZINE. Mr. President, I ask unanimous consent to lay aside the pending amendment, and I call up amendment No. 1811.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE] proposes an amendment numbered 1811.

Mr. CORZINE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55)

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) Section 12731(a)(1) of title 10, United States Code, is amended by striking ''at least 60 years of age'' and inserting ''at least 55 years of age''.

(b) With respect to any provision of law, or of any policy, regulation, or directive of the executive branch, that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to the age in effect for qualification for such retired pay under section 12731(a) of title 10, United States Code, as amended by subsection (a).

(c) The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply to retired pay payable for that month and subsequent months.

Mr. CORZINE. Mr. President, on behalf of myself and Senator DURBIN, and hopefully others, this amendment is designed to reduce the retirement age for members of the National Guard and Reserves from 60 to 55. This change would allow for an estimated 92,000 reservists, currently age 55 to 59, to retire with full benefits and would restore parity between the retirement systems for Federal civilian employees and reservists.

Just to refresh my colleagues' memory, regular military personnel can retire after 20 years of service regardless of their age—38, 48, 55, or 60—and receive their retirement benefits at the time of retirement. As we reflect on the demands placed on our soldiers in Iraq, particularly our Reserve and Guard forces—of which there are roughly 20,000 in theater—there is no more appropriate time to consider this important proposal to support these brave men and women.

As a matter of basic fairness, it is only right to restore parity between the retirement age for civilian employees and their Reserve counterparts.

When the Reserve retirement system was created in 1947, the retirement age for reservists was identical to the age for civilian employees. At age 60, reservists and Government employees could hang up their uniforms and retire with full benefits. However, since 1947, the retirement age for civilian retirees has been lowered by 5 years while the retirement age has not changed for reservists and guards.

The disparate treatment of Federal employees and reservists would have been serious enough had the nature of the work performed by the reservists been steady over the past five decades, but today this country places an increasingly heavy demand on its Ready Reserve, more of a demand than has ever been the case in our Nation's history. Today more than 200,000 reservists have been called up to serve their country in the war on terrorism, and 170,000 of these reservists and Guard troops are now on active duty, here at home and abroad. America's dependence on our Ready Reserve has never been more transparent to the American people. Reservists are now providing security at our Nation's airports, and they patrol the air over our major cities. They provide caps, protection.

With call-ups that last several months and take reservists far from home in serving our Nation, it is increasingly clear that reservists are performing the same role as those on active duty and any other service. Before the war on terrorism, reservists were performing 13 million man-days each year—get the idea of how big that is—more than a tenfold increase over the 1 million man-days the Reserves averaged just 10 years ago. It has moved dramatically, even before the war on terrorism began.

In fiscal year 2002, reservists contributed 41 million man-days. And this year, in fiscal year 2003, that number will be up again. So we are using our Reserve Forces dramatically more than was ever the case in the history of the Reserve and Guard units. These people are on active duty for an increasing amount of time, particularly as we justify and move forward with the war on terrorism. These are staggering increases. Those defenders of the American people should have that recognized by shortening their time before they are eligible for retirement. In my view, with additional responsibility should come additional benefits.

I know this proposal is not without cost. But not improving the reservists' benefits also will have a cost, potentially a severe cost. After all, in recent years we have seen our military struggling to meet recruitment and retention goals. It has been even more severe sometimes with our Guard and Reserve. That has improved somewhat after 9/11. But unless the overall package of incentives is enhanced, there is little reason to believe we will be able to attract and retain highly trained Reserve personnel over the long run, particularly as their deployments and the number of man-hours has increased.

Active-duty military personnel have often looked to the Reserves as a way to continue to serve their country while being closer to their families. We have been drawing people out of the active military into the Reserve. With thousands of dollars invested in training active-duty officers and enlisted soldiers, the United States benefits tremendously when personnel decide to continue with the Reserves. But with Reserve deployments increasing in frequency and duration, pulling reservists away from their families and civilian life, imposing real hardships on those families, the advantage in joining the

Reserves has been dramatically reduced. There is no question about that.

The more we depend on the Reserves, the greater chance we have of losing highly trained former active-duty service men and women and a number of people who have just joined the Active Reserve because they thought it was a way they could supplement income and be involved in supporting our Nation.

In my view, the added incentive of full retirement at 55 might provide just the inducement some of them need to stay on despite the surge in deployments. By the way, to illustrate, in the period 1953 to 1990, there were 11 deployments of reservists and guards. Between 1991 and 2001, there have been 50 deployments of reservists and guards. Now those numbers are accelerating as we take on this war on terrorism.

It is an enormous change in how we are utilizing our Reserve Forces. I hear from the guards and reservists in New Jersey to whom I spoke directly that one of those things they are most interested in is seeing a shortening of the period before they have access to retirement benefits. It will make a big difference in their lives. They consider it important.

Enacting this legislation will send a clear message that our Nation values the increased sacrifice of our reservists during this trying time. This proposal has been endorsed by key members of a broad military coalition, including the Reserve Officers Association, Veterans of Foreign Wars, the Air Force Sergeants Association, the Air Force Association, and Retired Enlisted Association, the Fleet Reserve Association, the Naval Reserve Association, and the National Guard Association. All of the groups that represent these individuals in our system are strongly supporting this initiative. It would restore parity between the Reserves retirement system of our Guard and Reserve and the civilian retirement system, acknowledge the increased workload of reservists, and provide essential personnel with the inducement to join and stay in the Reserves until retirement.

I do hope my colleagues will support this amendment. This is the appropriate time given what kind of challenge we are laying down for our National Guard and Reserve across this country. We have increased their responsibilities. We have put severe challenges in front of them and their families, and it is our responsibility, in my view, to recognize that and to address it. I think one of the best ways to do that is to reduce the retirement age for the Reserve and the Guard.

I hope my colleagues will join me in supporting this amendment.

With that, I yield the floor.

Mr. DURBIN. Mr. President, I ask unanimous consent to be allowed to speak for 5 minutes and lay down an amendment out of line before giving the floor to Senator REED, who will do the same with his amendment.

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

AMENDMENT NO. 1837

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. MIKULSKI, and Mr. CORZINE, proposes an amendment numbered 1837.

Mr. DURBIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure that a Federal employee who takes leave without pay in order to perform certain service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred)

At the appropriate place, insert the following:

SEC. ____. (a) SHORT TITLE.—This section may be cited as the ''Reservists Pay Security Act of 2003''.

(b) NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.—

(1) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of the service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) In this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(3) EFFECTIVE PERIOD.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this section and ending September 30, 2004.

Mr. DURBIN. Mr. President, I thank my colleague, who is a Boston Red Sox fan, for allowing me an opportunity to present this amendment so I can watch the Cubs in a few minutes. I owe him big for this one.

This amendment takes into consideration that we have 1.2 million members of the National Guard and Reserve. Of that number, some 120,000 are also Federal employees—10 percent of the National Guard and Reserve—and 14,000 of the Federal employees are currently mobilized and serve on active duty.

All across the United States, States, local governments, and private corporations have said to the men and women in the Reserve and Guard: If you are activated and mobilized, we will hold you harmless in terms of your salary. We will make up the difference between your military pay and what you would have made at home so that your family won't suffer a hardship and have to make a sacrifice.

Sadly, we do not make the same concession for Federal employees. My Reservist Pay Security Act of 2003 is legislation that will help alleviate the problems faced by many Federal employees who serve in the Reserves and must take time off from their jobs when our Nation calls. It allows these citizen-soldiers to maintain their normal salary when called to active service by requiring Federal agencies to make up the difference.

This amendment is affordable. A recent Department of Defense survey of 35,000 reservists found that 41 percent lost income during mobilization and deployment, while 59 percent either broke even or increased their income on active duty. Of those who reported losing income, most—70 percent—said their income was reduced by $3,750 or less while serving on active duty.

Based on CBO estimates, this measure to protect the income of Federal employees who are activated and mobilized in Guard and Reserve units would cost us approximately $75 million for the next fiscal year. That seems like a very small amount in an $87 billion supplemental.

I think we need to provide these Reserve employees financial support so they can leave their civilian lives and serve our country without the added burden on their families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

AMENDMENT NO. 1834

Mr. REED. Mr. President, I ask unanimous consent to lay aside the pending amendment, and I call up amendment No. 1834.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself and Mr. HAGEL, proposes an amendment numbered 1834.

Mr. REED. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase the end strength of the Army and to structure the additional forces for constabulary duty)

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) In addition to the strengths authorized by law for personnel of the Army as of September 30, 2004, pursuant to paragraphs (1) and (2) of section 115(a) of title 10, United States Code, the Army is hereby authorized an additional strength of 10,000 personnel as of such date, which the Secretary of the Army may allocate as the Secretary determines appropriate among the personnel strengths required by such section to be authorized annually under subparagraphs (A) and (B) of paragraph (1) of such section and paragraph (2) of such section.

(b) The additional personnel authorized under subsection (a) shall be trained, incorporated into an appropriate force structure, and used to perform constabulary duty in such specialties as military police, light infantry, civil affairs, and special forces, and in any other military occupational specialty that is appropriate for constabulary duty.

(c) Of the amount appropriated under chapter 1 of this title for the Iraq Freedom Fund, $409,000,000 shall be available for necessary expenses for the additional personnel authorized under subsection (a).

Mr. REED. Mr. President, I offer this amendment with Senator HAGEL of Nebraska. It would increase the end strength of our Army so we can deal with the increasing turbulence throughout the world that we have been confronting since 9/11—indeed before then.

Our military forces are without equal. They combine superb technology with bravery and devotion to the Nation. They are well led, particularly by extraordinary noncommissioned officers and junior officers. These qualities extend to both Active and Reserve components. History has never seen such a formidable force. However, history is replete with examples of superb military forces worn down because they were overextended.

Today, that danger is approaching our Army as it copes with worldwide commitments and the difficult challenge of a violent insurgency in Iraq and a resurgence of the Taliban in Afghanistan.

This chart depicts the deployment of soldiers. There are 325,000 soldiers in 120 countries. In Iraq, there are about 120,000; in Kuwait, about 22,000; in Afghanistan, approximately 11,000. They are all across the globe performing missions that are important to us and our national security and our safety. This situation of an extended Army has been developing over many years. Since 1989, the Army's military end strength has been cut by more than 34 percent and civilian strength by 45 percent, while undergoing a 300-percent increase in mission rate. Fewer people, more demand. That has been the record since 1989 and before that even.

This operational tempo certainly became acute after September 11 and the commencement of the global war on terrorism. A respected voice who devoted his life to serving the nation, GEN Frederick Kroesen, wrote in November 2002, before the initiation of operations in Iraq:

It appears to this interested observer that we are expending the force and doing little to ensure its viability in the years to come, years we have been assured it will take to win the war on terrorism. The quality of our effort, high and commendable during the first year and showing no signs of deterioration, can in the long run only be sustained by preparing now for the force we will need then. Barring the unlikely scenario of an all-out war and full mobilization, soldiers now fighting the war on terrorism, with few exceptions, will not be available for fighting two years from now. Units and organizations of the reserve components, mobilized for the first year of war, will not be available for more of the same service off into the indefinite future. It might be prudent now to ask the managers who decreed the current second-year Reservists' extensions what they plan for the third year.

The answer, of course, is to increase the size of the Army. On September 10, 2001, the Army was too small for the missions with which it was charged—a fact reported by both the Secretary and Chief of Staff of the Army in congressional testimony of that year.

On September 11, Army mission requirements grew significantly; the Army did not. It instead begins the expending of it and establishes the need to begin planning for the replacement of that which is being used up.

General Kroesen, a distinguished soldier, commanded the 82nd Airborne Division when I served as a young lieutenant. His insights are both profound and to me compelling.

Again, these words from General Kroesen were written before Operation Iraqi Freedom and before we found ourselves in a prolonged and costly effort to defeat an insurgency and rebuild a nation. The added stress of Iraq has made the acute absolutely critical.

James Kitfield of the National Journal wrote an insightful analysis of the stresses affecting the Army. He points out how this breakneck operational tempo is imposing great burdens throughout the Army. In his words:

To understand why, shift the focus from individual soldiers to major units such as the 82nd Airborne Division. Traditionally America's quick reaction division, the 82nd currently has a brigade in Iraq and another in Afghanistan. The 3rd Brigade of the 82nd Airborne, however, is the one that most concerns Army planners. After leaving Afghanistan earlier this year, the 3rd Brigade was home only about 6 months before being sent to help relieve the 3rd Infantry Division.

Then there is the 3rd Brigade of the 1st Infantry Division. Having returned recently from Germany from an extended peacekeeping deployment in the Balkans, the soldiers of the 3rd Brigade are becoming reacquainted with their families and relearning the kinds of high-intensity combat skills the Army put to such impressive use during the Iraq war. That training cycle itself requires weeks away from home. The 1st Infantry soldiers will not have much time before turning their focus to deployment preparations, however, because the 3rd Brigade is heading to Iraq next March to relieve elements of the 4th Infantry Division.

What we are seeing every day is an increasing cycle of deployment and redeployment of brigades and divisions being shuffled about to cover all of these tremendous worldwide domains. This tempo and this stress is beginning to show in terms of our soldiers and in terms of the Army. Unless we provide additional soldiers for the Army, these stresses will be manifested in growing problems, such as difficulties in recruitment and retention and difficulties in adequately and thoroughly training the force.

The Army has begun to cancel or postpone many exercises and training rotations. The Los Angeles Times recently reported that since October 1, 2002, the Pentagon has canceled or postponed 49 of the 182 training exercises scheduled for this fiscal year.

The superb force that entered Iraq was forged through intensive training. Without such training, we will lose the

edge in a world where there are other potential adversaries, such as North Korea whose army is more tenacious than the Iraqis under Saddam.

The effects on recruitment and retention are likely to be seen first in the National Guard and Reserves. Indeed, unless we add more active component soldiers, we will continue to rely on the National Guard and Reserves to fill the gaps. Such a policy is unsustainable over an extended period.

National Guard men and women and Reserve forces are dedicated patriots and skilled professionals, but they have lives outside the Army. If we continually force them to choose between service to the Nation and supporting their families, they will ultimately and invariably choose their families.

Moreover, the stresses on the Guard and Reserves are not localized in a few communities. These stresses are transmitted to every corner of the country, and we will have great difficulty maintaining public support for an extended operation in Iraq if the public sees that operation through the prism of neighbors repeatedly called to service and sacrifice without relief.

There has been much discussion about the adequacy of our force structure in Iraq, and I have become increasingly skeptical of the adequacy of the force structure in Iraq. You just have to pick up today's New York Times where there is an article that describes the fact that there is approximately 1 million tons of ammunition in Iraq, much of it unsecured because, frankly, we don't have enough troops there. We don't have enough American troops. We have not received our international reinforcements, and we have not yet effectively trained and deployed Iraqi troops.

What is also frightening is the fact that apparently the Saddam Hussein regime stockpiled at least 5,000 shoulder-fired missiles, air defense missiles, capable of bringing down aircraft. Only about a third of these missiles are accounted for. There is the alarming possibility, because we are unable to secure these ammo dumps, that literally thousands of shoulder-fired air defense missiles are in Iraq or, even more alarming, have filtered outside the country to terrorist groups. So there is increasing evidence that the forces we have on the ground are not doing an essential job, which is to protect themselves from munitions going into the hands of terrorists and being used against our troops.

Regardless of how one feels about the number of troops in Iraq, we simply will not be able to maintain even that level unless we increase the end strength of our Army. Increased reliance on Guard and Reserves is not a sensible long-term strategy, and the arrival of international reinforcements is problematic. The Army is trying to squeeze more boots on the ground from its current forces, but this improvisation is a quick fix, not a long-term solution.

This amendment would authorize and would pay for an increase in the active duty Army end strength by 10,000 personnel and would focus on forces needed for constabulary duty, such as military police, civil affairs, light infantry, and special operations.

The objective of end strength, meaning the number of personnel permitted to serve in the military, was succinctly summed up by retired GEN Gordon R. Sullivan:

> The objective is to have enough soldiers to execute Army missions at the right time and the right place, have enough in the total to have both tactical and operations flexibility and to have adequate depth in numbers to support leader development, required force structure manning and the requisite balance needed across the ranks.

Indeed, the current numbers are not giving the flexibility and the redundancy we should have built in to our military.

Each year in the Defense authorization bill, Congress authorizes the end strength of each branch of the military service. There is a separate end strength number for the Active and Reserve component, which includes the National Guard.

Presently, the authorized active duty end strength for the Army is 480,000. The authorized end strength for the Army National Guard is 350,000, and the authorized end strength for the Army Reserve is 205,000.

In addition, there is a variance, which means the Secretary of Defense is authorized to exceed the active duty end strength by 3 percent when necessary, and the Guard and Reserve end strength by 2 percent.

I would argue that the present authorized end strength today, even with the allowed variance, does not provide enough Army personnel to provide the depth, the flexibility, and the balance it needs to carry out the missions of today and the future. This Army is stretched across the globe. The demands increase and the number of soldiers who are available is not able to give that needed flexibility, that adaptability, and that balance.

Five years ago in the Defense Authorization Act for fiscal year 1999, Congress lowered the authorized active duty end strength from 495,000 to its present 480,000. So there were at least 15,000 more soldiers several years ago before the war on terror, before the war in Iraq, before contingencies that have yet to present themselves to us.

Soon after that, however, the discussions began when we lowered this end strength, focusing on the inadequacies of the number of people we had. During a hearing before the House Armed Services Committee in July 2001—again, before September 11—General Shinseki stated:

> Given today's mission profile, the Army is too small for the mission load it is carrying.

At that time, both General Shinseki and Secretary White requested that end strength be increased to 520,000. Again, that was before 9/11 and before Iraq.

Since 2001, the Association of the United States Army has been advocating for increasing end strength by 30,000 to 40,000 additional soldiers. Again, my amendment would only call for a 10,000 increase in the number of soldiers.

However, despite the views of these professionals, end strength has not been increased. Yet none of the Army's missions from 2000 have ended, and with the advent of September 11, the war on terror, the war in Afghanistan, and the war in Iraq, the burden has increased exponentially.

Today, as this chart shows, the Army has 325,200 soldiers deployed and forward stationed in 120 countries. While some of these deployment numbers may vary in the future, there will not be any significant changes. No one, I think, reasonably expects that we will be withdrawing within a year or two a major force from Iraq or forces from Afghanistan or forces from even Kosovo, Bosnia, and Hungary. These commitments are there, and they must be met.

Retired LTG Jay Garner, the first director of Iraqi reconstruction, told the National Journal that the active duty Army ''has already been burned out'' by trying to do too much with too few, and the ''reserves are going to be burned out'' by repeated activations.

General Garner argues that the Army needs to expand by two light infantry divisions, about 20,000.

The U.S. Army's Center of Military History has looked at the numbers and experiences of forces needed to remain in country after the conventional battle has ended—occupation forces, in other words. The center notes that you can look at historical examples, but you must also consider contemporary analyses and current capabilities.

With this three-pronged analysis, the Army's Center of Military History posited that if ''we and our allies were to directly and effectively steer the course of events,'' 300,000 troops would be required in Afghanistan for a generation and 100,000 troops would be needed in Iraq for a number of years,'' assuming a modernized society and robust infrastructure. Without these numbers of military personnel, we may have influence but not control.

I think we are seeing today in Iraq that we have influence and not control, certainly not in Baghdad. We have influence in Afghanistan, but not control. It is important to note that providing insufficient troops to both Afghanistan and Iraq not only has consequences now but well into the future.

Today, the Army presently has 501,000 soldiers serving on active duty. Not only is this above the authorized end strength of 480,000, but it is also above the 3 percent variance rate. Indeed, the Army is so stretched at the moment, they are actually breaking the law on end strength. Isn't that enough evidence to suggest we need to raise the level?

I also note that even when the Army is well over the authorized end

strength, they are having an extraordinarily difficult time implementing a rotation policy for Iraq and other areas around the globe. This means that tours are being extended. More Guard and Reserve forces are being called up and our soldiers are getting tired by the daily stress they are enduring and frustrated by the lack of certainty of when they may return home.

Currently more than 130,000 Guard and Reserve soldiers are deployed. Approximately 29,000 National Guard soldiers, infantry, signal transportation, military police are serving in Iraq and Kuwait. Among those are the 115th and 119th military police companies from Rhode Island, and the 118th military police battalion from Rhode Island. They are doing a magnificent job, but they are feeling the stress of this deployment.

More than 10,000 Reserve soldiers are in Kuwait, Afghanistan, and Iraq. At this time, there are still requirements for National Guard soldiers in Bosnia, Kosovo, and the Sinai. In fact, the National Guard has taken command relationships in these countries—Bosnia, Kosovo, and the Sinai. This is a development that I think many National Guard soldiers did not anticipate when they joined the Guard several years ago, certainly if they joined the Guard 10 or 15 years ago.

Since September 11, the Guard has mobilized 210,000 of its 350,000 soldiers at one time or another. The Reserve has mobilized 85,000 of its 205,000 in that same time period.

In addition, the activation of the Reserve component has a different effect than the deployment of an active-duty soldier. For active-duty personnel, the military is their primary employer and their families are prepared for the sacrifices required when their loved one is absent from home for a long period of time performing dangerous duty. With reservists, it is a different story. While slightly more than 50 percent of the active-component Army is married, 74 percent of reservists have at least 1 dependent. About one-half of these soldiers work for employers with 1,000 or fewer employees and 15 percent work for companies with less than 50 employees, where their absence is sorely felt.

While these soldiers are fighting for our country for at least a year, employers are understaffed and spouses are struggling as single parents, often under financial duress, since some soldiers take a pay cut when they give up their civilian salary for an Army wage.

Goldman Sachs recently conducted a survey of Reserve component soldiers and their employers and found these disturbing results: Virtually all the reservists felt that the activation was having a less than favorable impact on their civilian careers. Nearly one-third of the reservists were not sure their jobs would be waiting for them when they came off active duty, and half believed there would be a negative effect on pay and promotion.

Indeed, there is a dire need to expand the number of active-duty military personnel to avoid a future crisis in recruitment and retention in the military, specifically in the Reserve and National Guard units. With numbers like this reported by the Goldman Sachs survey, with the stress of a year deployment, with the additional burdens on spouses and children, I believe when these National Guards men and women and reservists return home the likelihood they would eagerly extend their careers in the Guard and Reserve is diminished significantly. Our soldiers need a break. They deserve better. We can help them and we should.

Now some may oppose this amendment by stating that senior officials from the administration and the Army have repeatedly stated that if they needed more troops they would ask for them, and they do not need more troops. I argue the administration is ignoring the facts I have just cited, and the simple and the obvious point that our Army is overworked and the work continues.

I think they are ignoring these facts for several reasons. First, increasing end strength admits that we need more troops to create a reasonable rotation policy, which means we are going to be in Iraq for a long time. The only other country where we have a one-year rotation policy for troops is Korea, where we have been ensconced now for almost 50 years. This administration simply must admit that a U.S. military presence in Iraq will be necessary for a very long time. Last Saturday's edition of the Washington Post quotes GEN Jim Jones, the U.S. European commander and NATO supreme allied commander, as saying U.S. soldiers may pull out of Bosnia in 2004—may. That is 8 years after they went in and were also going to stay for just 1 year. I argue that Iraq is likely a more difficult undertaking than Bosnia. Also, the only reason the U.S. is able to leave Bosnia is because troops from other nations are remaining, a luxury we unfortunately do not have in Iraq today.

Once again, the United States Army Center of Military History has noted: Occupations have required not only manpower but also time to achieve success. In the Philippines, for example, the officers and NCOs of the Philippine constabulary were virtually all continental Americans in 1902. Yet, by 1935, 30 years later, everyone was a Filipino. The Philippines was a challenging proposition with respect to both manpower and time, and it took a generation to achieve a satisfactory outcome. Germany and Japan transitioned from being occupied to being allies in about a decade.

So looking at history, challenging countries take at least a generation to stabilize, less demanding countries perhaps a decade. We are in Iraq for at least 10 years, and we have to have a force structure that will support that deployment. The Army must grow so they can rotate troops and avoid sending the units again and again to Iraq and Afghanistan.

The second reason the administration is reluctant to increase end strength is that as the New York Times noted in July,

> . . . the concept on increasing troop numbers and its costs contradicts a basic tenet of Secretary Rumsfeld's goal for military transformation, which is to rely on new technology and rewrite doctrine to allow smaller forces to attack with greater speed and deadliness.

I argue that Secretary Rumsfeld was able to test his theories of transformation during the period of conventional war in Iraq, and they were a success. But he risks losing that victory by refusing to see a war of this sort also requires nation building, and nation building requires many more boots on the ground to ensure security and stability.

Retired LTG Walter Ulmer—and General Ulmer was one of the key leaders in the Army who analyzed and predicted the hollow Army of the 1970s—stated recently:

> One of the lessons we learned in the past, and we're relearning in dramatic fashion in Iraq and Afghanistan, is that the U.S. military may be able to fight a war with slim forces, but it takes a lot more troops to secure an unruly nation with many diverse interest groups and antagonists.

Ulmer argues the Army is short 40,000 to 50,000 troops. He said:

> The Army is a very elastic institution with a can-do culture, and that's a wonderful attribute, but it is not infinitely elastic and its can-do ethos makes it possible for the Army to practically respond itself to death.

Another senior Army official stated:

> Essentially, we fought a just-in-time war. A unit would arrive, get a bullet, the enemy would pop his head up and we'd fire the bullet. That puts a lot of stress on a commander who is simultaneously trying to execute the forward battle, carefully balance his resources, pull a company from here to plug a gap over there, all the while looking back over his shoulder at very exposed logistical lines.

He asked:

> Why fight a war like that when we could have deployed overwhelming combat forces in a way that would reduce risks and possibly protect lives? We've also seen in Iraq that while lean forces can be successful in combat by focusing on an enemy's finite centers of gravity, in [postwar] stability operations, there are no decisive centers of gravity. You have to spread your forces throughout each city, and that takes more of them.

If we accept the need to increase the size of the Active Duty Army, we need to then focus on what types of forces would be most beneficial. The U.S. Army is the best in the world when it comes to skills and equipment needed to win on the battlefield, but the conventional battle in Iraq is over. Now I argue we need an occupation force, those who must remain to accomplish the U.S. objective once the conventional battle is finished. These forces must have different skills because they have different missions: defending against an insurgency, enforcing law

and order, providing humanitarian relief, and reconstruction of infrastructure. They need the skills required for nation building.

So my amendment directs that the Army should seek 10,000 soldiers who have the skills that are the highest demand in Iraq: military police, special forces, civil affairs officers, and light infantry. These forces travel lighter, so they are less expensive to transport and maintain. These forces will provide maximum effectiveness at minimal cost.

In January, the Center for Strategic and International Studies, or CSIS, released a report called ''A Wiser Peace: An Action Strategy For Post-Conflict Iraq.'' The first recommendation in the report is to:

. . . create a transitional security force that is effectively prepared, mandated and able to handle post-conflict security needs.

The report states that:

The United States must immediately identify and train a core force of U.S. military troops to perform constabulary duties in Iraq. Working with its coalition partners, the U.S. must also identify and ready other constabulary forces—such as the Italian Carabinieri and French Gendarmerie—to assure their timely arrival in theater.

We have yet to see the arrival of the French Gendarmerie and the Italian Carabinieri. There are Italian forces that are assisting there, but the French have not yet arrived.

But the need the CSIS identified before the war ever began is clearly there, and the U.S. Army is struggling to meet it. Presently, the Active-Duty Army has 19,432 authorized positions for military policemen and there are currently 22,476 MPs serving, well over authorized capacity. There are 22,608 Reserve slots for military police and they are presently at 95 percent capacity. Clearly, there is a need for more military police. This amendment assures we start meeting this need.

In addition, my amendment gives the Army the flexibility to either move Reserve slots to active duty or recruit new soldiers. I should make it clear that the positions move, not necessarily the people. No reservist can be forced to become an active-duty soldier.

Most of the Army's military police are in Reserve units—12,800 are in the Active Force while 22,800 are in the Reserves. Most Civil Affairs Units, those soldiers who provide a link between the military and civilian population in an area of operations, are also in Reserves.

Clearly, there needs to be a redistribution, given the demands on today's Army. In addition, if the Army has the flexibility to move reservists and guardsmen into the Active Force, these soldiers will be ready for deployment much more quickly than new recruits.

The informal CBO cost of 10,000 additional soldiers is $409 million. That number includes military personnel and operational and maintenance costs of 10,000 additional troops for fiscal year 2004. I believe this is the most worthwhile expenditure.

This amendment offsets this cost with funding from the Iraqi Freedom Fund. As we all know, the Iraq Freedom Fund was established in the fiscal year 2003 supplemental we passed in March. At that time, $15 billion was set aside for Secretary Rumsfeld to use on emergency expenses for military personnel, operation and maintenance, procurement, or humanitarian assistance. Most of that funding has been expended. Therefore, an additional $1.9 billion for the Iraqi Freedom Fund is included in this supplemental for exigencies. I believe the exigency is here and we should pay for these troops now.

Many would argue that while the costs are $409 million the first year, these troops will have to continue to be maintained in future years, and the actual cradle-to-grave costs are much higher. I would counter that this cost is minimal compared to what it will take if, in just a short time—2 or 3 years—the U.S. Army does not have the fighting force it needs to perform its mission because we squandered its strength.

Let me show another chart, which again contrasts the Army in August of 2000, when some were criticizing it as being unprepared, and the Army in August of 2003.

There were 144,000 soldiers deployed in 2000; in 2003, about 370,000—over 370,000; 7 brigades in 2000, 30 brigades in 2003. No National Guard divisions deployed; 3 years later, 2 National Guard divisions deployed. In 2000, fewer than 25,000 National Guard and Reserve troops on active duty; today, 126,498 troops. This has an impact.

These are the scenarios that are used as a template to plan our military forces, the ''two major theater wars'' scenario: MTW east, Iraq; MTW west, hypothetically Korea. This is the required order of battle that has been devised after careful study: six divisions here and four divisions for MTW west. The units available in August of 2000, again at a time when our Army was being criticized as not being up to the task of defending the Nation—six divisions and one armored cavalry regiment ready, four divisions at MTW west and one armored cavalry division. Today, only four divisions here for the east scenario and only three divisions here.

There is an impact in terms of our capability to do what we planned for decades to do. We have to ensure that our Army is ready for any mission, and we have to ensure it today.

In his farewell speech, when he was retiring as Army Chief of Staff, GEN Eric Shinseki said:

We must ensure the Army has the capabilities to match the strategic environment in which we operate, a force sized correctly to meet the strategy set forth in the documents that guide us. . . . beware the 12-division strategy for a 10-division Army.

We are rapidly approaching a 12-division strategy with a 10-division Army.

Our Army is fighting on many fronts for us right now. They are doing a magnificent job, as well as the Navy, Air Force, Marine Corps, Coast Guard—all of our Defense Department personnel and related personnel. We are extraordinarily proud of them. But they are overtaxed, particularly so in the Army because of the nature of the Army. It is not only the combat arm of decision but also is the combat arm of duration. It is the Army that typically is charged with the aftermath of the battle as well as the battle.

We have to help them. My amendment will provide a modicum of relief. I urge my colleagues to support the amendment.

As a final point, ultimately we all respond, not just to our colleagues, not just to institutional pressures, but to our constituents. I would find it very difficult, this month or 6 months from now, to go back and to meet my neighbors, who are in the National Guard and the Reserve, and explain to them that we could not increase the size of our Army, that they are being deployed once again, after repeated deployments, because we couldn't find the way or the will to increase the size of our Army. I think we should. I think we must. And I hope we do.

I ask unanimous consent that Senator LEVIN be added as a cosponsor of this amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget

through October 3, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is below the budget resolution by $703 million in budget authority and by $6.808 billion in outlays in 2004. Current level for revenues is $101 million above the budget resolution in 2004.

This is my first report for fiscal year 2004.

I ask unanimous consent to print the following letter and report in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 10, 2003.

Hon. DON NICKLES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached tables show the effects of Congressional action on the 2004 budget and are current through October 3, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

This is my first report for the fiscal year.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Attachments.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF OCTOBER 3, 2003

[In billions of dollars]

	Budget resolution	Current level [1]	Current level over/under (−) resolution
On-Budget:			
Budget Authority	1,873.5	1,872.8	−0.7
Outlays	1,897.0	1,890.2	−6.8
Revenues	1,331.0	1,331.1	0.1
Off-budget:			
Social Security Outlays	380.4	380.4	0
Social Security Revenues	557.8	557.8	0

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF OCTOBER 3, 2003

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	n.a.	n.a.	1,466,370
Permanents and other spending legislation [1]	1,085,461	1,057,861	n.a.
Appropriation legislation	0	345,754	n.a.
Offsetting receipts	−366,436	−366,436	n.a.
Total, enacted in previous sessions	719,025	1,037,179	1,466,370
Enacted this session:			
Authorizing legislation:			
American 5-Cent Coin Design Continuity Act of 2003 (P.L. 108–15)	−1	−1	0
Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18)	2,746	2,746	0
Clean Diamond Trade Act (P.L. 108–19)	0	0	*
Prosecutorial Remedies and Other Tools to End Exploitation of Children Today Act (P.L. 108–21)	0	0	*
Unemployment Compensation Amendments of 2003 (P.L. 108–26)	4,730	4,730	145
Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27)	13,312	13,312	−135,370
Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108–29)	0	0	*
Welfare Reform Extension Act of 2003 (P.L. 108–40)	99	108	0
Burmese Freedom and Democracy Act (P.L. 108–61)	0	0	−10
Smithsonian Facilities Authorization Act (P.L. 108–72)	1	1	0
Family Farmer Bankruptcy Relief Act of 2003 (P.L. 108–73)	0	0	*
An act to amend Title XXI of the Social Security Act (P.L. 108–74)	1,325	100	0
Chile Free Trade Agreement Implementation Act (P.L. 108–77)	0	0	−5
Singapore Free Trade Agreement Implementation Act (P.L. 108–78)	0	0	−55
Continuing Resolution, 2004 (P.L. 108–84)	−2,222	1	−2
Surface Transportation Extension Act of 2003 (P.L. 108–88)	6,405	0	0
An act to extend the Temporary Assistance for Needy Families block grant program (P.L. 108–89)	15	−36	33
An act to amend chapter 84 of title 5 of the United States Code (P.L. 108–92)	1	1	0
Total, authorizing legislation	26,411	20,962	−135,264
Appropriations acts:			
Emergency Wartime Supplemental Appropriations Act, 2003 (P.L. 108–11)	215	27,349	0
Legislative Branch Appropriations (P.L. 108–83)	3,539	3,066	0
Defense Appropriations (P.L. 108–87)	368,694	251,486	0
Homeland Security Appropriations (P.L. 108–90)	30,216	18,192	0
Total, appropriation acts	402,664	300,093	0
Continuing Resolution Authority:			
Continuing Resolution, 2004 (P.L. 108–84)	386,209	193,807	0
Passed pending signature: An act to amend the Immigration and Nationality Act (H.R. 1252)	0	0	2
Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	358,447	338,124	n.a.
Total current level [1,2]	1,872,756	1,890,165	1,331,108
Total budget resolution	1,873,459	1,896,973	1,331,000
Current level over budget resolution	n.a.	n.a.	108
Current level under budget resolution	703	6,808	n.a.

[1] Per section 502 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, provisions designated as an emergency are exempt from enforcement of the budget resolution. As a result, the current level excludes prior-year outlays of $262 million from funds provided in the Emergency Supplemental Appropriations for Disaster Relief Act of 2003 (P.L. 108–69), and $456 million from funds provided in the Legislative Branch Appropriations Act, 2004 (P.L. 108–83).

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Notes: n.a. = not applicable; P.L. = Public Law; * = less than $500,000.

Source: Congressional Budget Office.

HONORING OUR ARMED FORCES

Mrs. LINCOLN. Mr. President, in recent months I have risen on several occasions to pay tribute to the men and women who are fighting in Iraq and Afghanistan in support of the global war on international terror. Today I rise once again to pay tribute and to honor an Arkansas native recently who died last week in Afghanistan—LTC Paul Kimbrough, a native of Little Rock, AR. He was 44 years old.

Paul Kimbrough graduated from Little Rock's Parkview High School in 1977. Four years later, he graduated from the University of Central Arkansas in Conway with a degree in political science. He joined the U.S. Army before returning to complete his education at the University of Arkansas School of Law in Fayetteville, where he headed up the Black Law Students Association. Paul followed his commitment to public service into the political arena, first working on the staff of U.S. Representative Ray Thornton, and then running in his own campaign for a seat in the Arkansas House of Representatives. He lost that race, but that didn't slow him down. Paul's next challenge took him to Washington, DC, where he came to work in the U.S. Department of Transportation in the inspector-general's office.

Lieutenant Colonel Kimbrough remained active in the U.S. Army reserve, and in June he was deployed to Afghanistan with the 416th Engineer Command, where he helped to oversee improvements to living conditions for

soldiers at Bagram Air Base. On October 3, he was flown to Incirlik, Turkey, for medical treatment. He died of cardiac arrest en route to Turkey.

His family and friends remember him as a true leader—driven, determined, and deeply committed to his country and its cause. In a message to his colleagues at the Department of Transportation sent before he left for Afghanistan, Paul wrote, ''Always there echoes in my mind: duty, honor, and country. Therefore, I will do my duty as God has given me light to see.''

LTC Paul Kimbrough is survived by his father, Major Kimbrough; his son, Paul Kimbrough, Jr.; his four brothers; and his sister. I ask my colleagues to join me in extending our deepest condolences to Paul's family and friends.

Paul Kimbrough's resolve and his commitment to his country will not be forgotten. The mission continues in Afghanistan and Iraq, and we remain confident that Paul Kimbrough's courage and sacrifice will have been given in a worthy cause.

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Christopher Swisher, a fellow Nebraskan and staff sergeant in the United States Army. Sergeant Swisher was killed last week when his squadron was attacked while on a mission in Baghdad, Iraq. He was 26 years old.

Sergeant Swisher was one of thousands of brave American servicemen and women fighting in Iraq. Our soldiers confront danger everday—their tremendous risks and sacrifices must never be taken for granted.

A Lincoln native, Sergeant Swisher was a dedicated soldier who was committed to his family and country. His life-long interest in the military led him to overcome a learning disability and embark on a successful career in the Army.

On the frontlines of the war in Iraq, Sergeant Swisher demonstrated the courage of a leader and an American hero. Before his deployment, Sergeant Swisher told his mother, Sharon; ''I'm doing what I want to be doing because I'm protecting my family, my home, and my country.'' In addition to his mother, Sergeant Swisher leaves behind a wife, Kristen; daughter, Alexandria; brother, Terry; and sister, Lisa. Our thoughts and prayers are with them all at this difficult time.

For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring SGT Christopher Swisher.

LOCAL LAW ENFORCEMENT ACT OF 2003

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

I would like to describe a terrible crime that occurred in Springfield, VA. On September 7, 2003, a Muslim woman was stabbed in the back outside a Fairfax County shopping mall and called a ''terrorist pig'' by her assailant. The 47-year-old convert to Islam was treated at a local hospital for a 2 to 3-inch deep wound on her lower back.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HONORING THE LIFE OF MOTHER TERESA

Mr. COLEMAN. Mr. President, I ask my colleagues to join me today in recalling and honoring the life and work of a physically tiny woman with an immeasurably large dedication to serving the poorest of the world's poor. Known to the world as Mother Teresa, she fulfilled what she understood to be her vocation in the world—not as a saint, but as a human being flawed and prone to the same temptations as are we all in this Chamber. I greatly admire her faithfulness to her purpose, and her profound faith in the Maker of us all.

Mother Teresa was born in August 1910 in Albania and became a Roman Catholic nun while still a young woman. A teacher, she was assigned to a convent and school in Calcutta, where she discovered a material poverty that was scarcely believable. Whatever she had given up in dedicating her life to her vocation did not compare to the need she saw around her. She left the already demanding work of her convent to found the Missionaries of Charity, a religious order of women whose work in the world remains service to people who are abandoned, suffering, poor, and dying, wherever they may be found.

Today, when many in the world consider religious commitments as too-often contentious and divisive rather than fruitful and unifying, we do well to ponder the 50 years of work by the Missionaries of Charity in more than 700 homes and shelters established in India, Asia, Europe, and the Americas. The example they set for sacrificial giving of oneself can best be described by Mother Teresa's own statement of her mission in this life:

> My community is the poor. Their security is my own. My house is the house of the poor—not just the poor, but the poorest of the poor: those who are so dirty and full of germs that no one goes near them; those who do not go to pray because they are naked; those who do not eat because they do not have the strength; those who collapse on the sidewalks knowing they are about to die while the living walk by without even looking back; those who do not cry because they have no more tears left.

Many of the people served by Mother Teresa considered her to be a living saint. But I find her all the more remarkable because she was human, fragile, and equipped with the same stubborn human nature we all struggle with when our virtue is tried. We may count ourselves blessed if we avoid what Mother Teresa told us is the greatest poverty—that of the heart. Like her, we must keep before us those ''not only hungry for bread, but hungry for love; not only naked from lack of clothing, but naked of human dignity; not only homeless for a house, but homeless for understanding and for human respect.''

Mr. President, I ask that we who are privileged to serve in this body, along with all people of goodwill, join the world in remembering the life and example of one whose dedication to her duty became her love.

Mr. NELSON of Florida. Mr. President, I rise today to honor one of modern history's most caring and unconditionally loving people on the eve of her beatification. Through her work as a teacher and provider to the poor and suffering, Mother Teresa of Calcutta demonstrated the essence of what it means to love.

It was March of 2002 that I was humbled and privileged during a personal visit to the Nirmal Hriday, Pure of Heart, Home for the Dying Destitutes in Calcutta, started by Mother Teresa in 1952 to give hope and care to those with neither. Although Mother Teresa passed away 5 years earlier, the spirit of kindness and concern that nearly transcended human boundaries lived on in that small hospice, and showed on the faces of its volunteers, and shined in the smiles of nuns carrying on her work.

That day I was also honored to visit with Mother Teresa's successor, Sister Nirmala. Sister Nirmala and I spoke briefly of the importance of continuing Mother Teresa's work, and in some small way, I hope the recognition we provide will further that cause—that comfort, care, and love she gave unconditionally.

Born in 1910, Mother Teresa became a Roman Catholic nun at the age of 18. She began by teaching geography and history at St. Mary's School in Calcutta, but became anxious to aid those outside of the convent. Twenty years later, she founded the Missionaries of Charity, a religious order based on attending to the impoverished and afflicted whom no one else served. Mother Teresa later turned her focus to the establishment of care programs for AIDS victims.

Although she was the recipient of the Nobel Peace Prize in 1979, as well as the Presidential Medal of Freedom and Foundation for Hospice and Homecare's Lifetime Achievement Award in 1985, Mother Teresa felt most honored by the joy of providing comfort and care to those in need.

As her beatification by Pope John Paul II nears, we pause to reflect upon the example set forth by Mother Teresa of Calcutta. Mother Teresa demonstrated true and unconditional love

for her fellow persons, giving herself fully to their care, and shall forever be remembered as one of the world's most generous and inspiring human beings.

TAIWAN NATIONAL DAY

Mr. ALLEN. Mr. President, on the occasion of Taiwan's National Day on October 10, 2003, I wish to pay tribute to Taiwan's many achievements and to wish Taiwan President Chen Shui-bian and Ambassador C.J. Chen my very best wishes.

The Republic of China on Taiwan is a major trading partner of the United States and it subscribes to human rights, the private enterprise system, freedom and democracy. Taiwan has become a model of economic and political success. We are very proud of the achievements of the free people of Taiwan.

I am honored to serve as the cochair of the Senate Taiwan Caucus, which was officially kicked off on September 17 with 11 members. We now have 14 members, and I hope more Senators will join this caucus and further strengthen the relationship between the U.S. Senate and Taiwan's Parliament and the people of America and Taiwan.

Again, my congratulations to Taiwan and its people on their National Day. May you remain the land of freedom.

JENNIFER JACQUES

Mr. LEAHY. Mr. President, I rise today to recognize the achievements of an outstanding young woman. On October 8, 2003, Jennifer Jacques of Chelsea, VT, received an award from the Vision, Strength and Artistic Expression Arts Program's national contest for students with disabilities: Roadtrip: A Journey of Discovery. National recognition alone is deserving of applause and praise, but Jennifer's represents a very special and unique achievement that reaches far beyond her accomplishments in art.

Born with severe cerebral palsy, Jennifer is confined to her wheelchair. Able to control only her head and neck, she controls her wheelchair and computer, as well as her communication device, through a switch placed under her chin. A bright young woman of 18, Jennifer attends public school in Chelsea, where she is enrolled in classes with her peers.

Jennifer's art is not only a reflection of her talents, but also of her great ability to overcome the disabilities that have faced her. Working with her teachers and instructors, Jennifer directed the placement of paint on paper placed on the floor. By repeatedly driving her wheelchair over the paint, she was able to create textured paintings with striking color and design. Jennifer recently sold all of her abstract pieces that were displayed at an art show in Montpelier.

These accomplishments are a tribute to this exceptional young woman, her family and friends, her educators and instructors. Jennifer Jacques embodies what Vermont has done, what it can do, and what the future holds.

ADDITIONAL STATEMENTS

TRIBUTE TO MRS. NANCY GARDNER SEWELL

• Mr. SHELBY. Mr. President, I rise today in honor of Mrs. Nancy Gardner Sewell, a library media specialist/coordinator and head librarian at Selma High School in Selma, AL. After 36 years of exemplary commitment and dedicated service to the Selma City school system, Mrs. Sewell plans to retire on October 18, 2003.

Mrs. Sewell is an educator, media specialist, civic leader, and strong advocate for children. Since 1993, she has tenaciously served the City of Selma, AL, as the first black female elected to its city council. Mrs. Sewell is multitalented and has excelled in every avenue of her life, as indicated by the numerous honors and awards bestowed upon her by her peers and community. She has never been content with the status quo. Each endeavor throughout her rich life has been met with new and innovative ideas, insurmountable energy, and the ability to motivate people.

Born and raised in Alabama, Mrs. Sewell married her college sweetheart, retired Coach Andrew A. Sewell, and became the mother of three children, Terri, Andrew, and Anthony. Her distinguished educational background includes a bachelor of science degree from Alabama State University, a masters degree from Purdue University, and advanced course work in other graduate studies at Atlanta University and the University of Alabama.

Among many of Mrs. Sewell's outstanding achievements and honors, she pioneered the development of elementary libraries in the Selma City Schools, was instrumental in maintaining accreditation status for their libraries, implemented the ''Accelerated Reader's Program,'' revitalized the Selma-Dallas Youth and Government Council, and lobbied for grants to improve literacy through school libraries, just to name a few.

Alabama is honored to be home to Mrs. Sewell. It is no secret that she is a woman who, day in and day out, goes above and beyond the call of duty. She is to be commended for all of her extraordinary efforts on behalf of Selma, AL, and everyone whose life she has touched.•

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.)

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate.

H.R. 408. An act to provide for expansion of Sleeping Bear Dunes National Lakeshore.

H.R. 708. An act to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

H.R. 1303. An act to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference.

H.R. 1900. An act to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of the Congress that there should be a national day in recognition of Jackie Robinson.

H.R. 1985. An act to amend the National Housing Act to increase the maximum mortgage amount limit for FHA-insured mortgages for multifamily housing located in high-cost areas.

H.R. 2264. An act to authorize appropriations for fiscal years 2004 and 2005 to carry out the Congo Basin Forest Partnership (CBFP) program, and for other purposes.

H.R. 2297. An act to amend title 38, United States Code, to improve benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

H.R. 2452. An act to designate the facility of the United States Postal Service located at 339 Hicksville Road in Bethpage, New York, as the ''Brian C. Hickey Post Office Building''.

H.R. 2655. An act to amend and extend the Irish Peace Process Cultural and Training Program Act of 1998.

H.R. 2755. An act to authorize the President to issue posthumously to the late William ''Billy'' Mitchell a commission as major general, United States Army.

H.R. 2998. An act to amend title 10, United States Code, to provide permanent authority for the exemption for certain members of the uniformed services from an otherwise-applicable requirement for the payment of subsistence charges while hospitalized.

H.R. 3054. An act to amend the Policeman and Firemen's Retirement and Disability Act to permit military service previously performed by members and former members of the Metropolitan Police Department of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police, and the United States Secret Service Uniformed Division to count as creditable service for purposes of calculating retirement annuities payable to such members upon payment of a contribution by such members, and for other purposes.

H.R. 3062. An act to amend the Mineral Leasing Act to authorize the Secretary of the Interior to issue separately, for the same area, a lease for tar sand and a lease for oil and gas, and for other purposes.

H.R. 3108. An act to amend the Employee Retirement Income Security Act of 1974 and

the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

H.R. 3159. An act to require Federal agencies to develop and implement plans to protect the security and privacy of government computer systems from the risks posed by peer-to-peer file sharing.

H.R. 3182. An act to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

H.R. 3229. An act to amend title 44, United States Code, to transfer to the Public Printer the authority over the individuals responsible for preparing indexes of the CONGRESSIONAL RECORD, and for other purposes.

H.J. Res. 52. A joint resolution recognizing the Dr. Samuel D. Harris National Museum of Dentistry, an affiliate of the Smithsonian Institution in Baltimore, Maryland, as the official national museum of dentistry in the United States.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 71. Concurrent resolution recognizing the importance of Ralph Bunche as one of the great leaders of the United States, the first African-American Nobel Peace Prize winner, an accomplished scholar, a distinguished diplomat, and a tireless campaigner of civil rights for people throughout the world.

H. Con. Res. 274. Concurrent resolution commending the National Endowment for Democracy for its contributions to democratic development around the world on the occasion of the 20th anniversary of the establishment of the National Endowment for Democracy.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1474) to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes.

ENROLLED BILL SIGNED

At 11:02 a.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2152. An act to amend the Immigration and Nationality Act to extend for an additional 5 years the special immigrant religious worker program.

The enrolled bill previously signed by the Speaker of the House, was signed on today, October 14, 2003, by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 708. An act to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1303. An act to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference; to the Committee on Governmental Affairs.

H.R. 1985. An act to amend the National Housing Act to increase the maximum mortgage amount limit for FHA-insured mortgages for multifamily housing located in high-cost areas; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2264. An act to authorize appropriations for fiscal years 2004 and 2005 to carry out the Congo Basin Forest Partnership (CBFP) program, and for other purposes; to the Committee on Foreign Relations.

H.R. 2297. An act to amend title 38, United States Code, to improve benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2452. An act to designate the facility of the United States Postal Service located at 339 Hicksville Road in Bethpage, New York, as the ''Brian C. Hickey Post Office Building''; to the Committee on Governmental Affairs.

H.R. 2655. An act to amend and extend the Irish Peace Process Cultural and Training Program Act of 1998; to the Committee on Foreign Relations.

H.R. 2755. An act to authorize the President to issue posthumously to the late William ''Billy'' Mitchell a commission as major general, United States Army; to the Committee on Armed Services.

H.R. 2998. An act to amend title 10, United States Code, to provide permanent authority for the exemption for certain members of the uniformed services from an otherwise-applicable requirement for the payment of subsistence charges while hospitalized; to the Committee on Armed Services.

H.R. 3054. An act to amend the Policemen and Firemen's Retirement and Disability Act to permit military service previously performed by members and former members of the Metropolitan Police Department of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police, and the United States Secret Service to count as creditable service for purposes of calculating retirement annuities payable to such members upon payment of a contribution by such members, and for other purposes; to the Committee on Governmental Affairs.

H.R. 3062. An act to amend the Mineral Leasing Act to authorize the Secretary of the Interior to issue separately, for the same area, a lease for tar sand and a lease for oil and gas, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3519. An act to require Federal agencies to develop and implement plans to protect the security and privacy of government computer systems from the risks posed by peer-to-peer file sharing; to the Committee on Governmental Affairs.

H.R. 3182. An act to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes; to the Committee on Finance.

The following concurrent resolutions were read, and referred as indicated;

H. Con. Res. 71. Concurrent resolution recognizing the importance of Ralph Bunche as one of the great leaders of the United States, the first African-American Nobel Peace Prize winner, an accomplished scholar, a distinguished diplomat, and a tireless campaigner of civil rights for people throughout the world; to the Committee on the Judiciary.

H. Con. Res. 74. Concurrent resolution commending the National Endowment for Democracy for its contributions to democratic development around the world on the occasion of the 20th anniversary of the establishment of the National Endowment for Democracy; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on Veterans' Affairs, without amendment:

S. 1131. A bill to increase, effective December 1, 2003, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans (Rept. No. 108–163).

By Mr. SPECTER, from the Committee on Veterans' Affairs, with amendments and an amendment to the title:

H.R. 1516. To provide for the establishment by the Secretary of Veterans Affairs of five additional cemeteries in the National Cemetery System (Rept. No. 108–164).

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. ROBERTS (for himself and Mr. BROWNBACK):

S. 1718. A bill to designate the facility of the United States Postal Service located at 3710 West 73rd Terrace in Prairie Village, Kansas, as the ''Senator James B. Pearson Post Office''; to the Committee on Governmental Affairs.

By Mr. CORNYN (for himself and Mrs. HUTCHISON):

S. 1719. A bill to amend chapter 5 of title 28, United States Code, to provide for the approval of the reassignment of district judges in divisions with 3 or fewer judges in districts in the State of Texas; to the Committee on the Judiciary.

By Mr. CORNYN (for himself and Mrs. HUTCHISON):

S. 1720. A bill to provide for Federal court proceedings in Plano, Texas; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 1721. A bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes; to the Committee on Indian Affairs.

By Mr. SANTORUM:

S. 1722. A bill to suspend temporarily the duty on electron guns for cathode ray tubes (CRT's) with a high definition television screen aspect ratio of 16:9; to the Committee on Finance.

By Mr. SANTORUM:

S. 1723. A bill to suspend temporarily the duty on plasma display panels for use in plasma flat screen televisions; to the Committee on Finance.

By Mr. SANTORUM:

S. 1724. A bill to suspend temporarily the duty on Liquid Crystal Display (LCD) panel assemblies for use in LCD projection type televisions; to the Committee on Finance.

By Mr. HATCH:

S. 1725. A bill to amend the Mineral Leasing Act to authorize the Secretary of the Interior to issue separately, for the same area,

a lease for tar sand and a lease for oil and gas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ALEXANDER (for himself and Mr. DODD):

S. 1726. A bill to reduce the preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DOMENICI:

S. 1727. A bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978; to the Committee on Energy and Natural Resources.

By Mr. SPECTER (for himself, Mr. ALLEN, Ms. SNOWE, Mrs. CLINTON, Mr. LEAHY, Mr. SCHUMER, Mr. COCHRAN, Mr. LAUTENBERG, Mrs. DOLE, Mr. BINGAMAN, Mr. MILLER, Mr. DASCHLE, and Mr. DORGAN):

S. 1728. A bill to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; to the Committee on the Judiciary.

By Mr. GRAHAM of Florida (for himself and Ms. SNOWE):

S. 1729. A bill to establish an informatics grant program for hospitals and skilled nursing facilities in order to encourage health care providers to make major information technology advances; to the Committee on Finance.

By Ms. SNOWE (for herself, Mrs. MURRAY, Mr. BIDEN, and Mrs. FEINSTEIN):

S. 1730. A bill to require the health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 168

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 168, a bill to require the Secretary of the Treasury to mint coins in commemoration of the San Francisco Old Mint.

S. 249

At the request of Mrs. HUTCHISON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 249, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a deceased veteran after age 55 shall not result in termination of dependency and indemnity compensation otherwise payable to that surviving spouse.

S. 269

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 269, a bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species.

S. 401

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 401, a bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age; and for other purposes.

S. 445

At the request of Ms. LANDRIEU, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 445, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 736

At the request of Mr. ENSIGN, the names of the Senator from Indiana (Mr. BAYH) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 811

At the request of Mr. ALLARD, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 811, a bill to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnership Act, and for other purposes.

S. 882

At the request of Mr. BAUCUS, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 882, a bill to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

S. 894

At the request of Mr. WARNER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 976

At the request of Mr. WARNER, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 982

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 985

At the request of Mr. DODD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1028

At the request of Mr. CRAPO, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1028, a bill to amend the Public Health Service Act to establish an Office of Men's Health.

S. 1053

At the request of Ms. SNOWE, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Maryland (Ms. MIKULSKI), the Senator from Nebraska (Mr. NELSON), the Senator from South Dakota (Mr. JOHNSON), the Senator from Washington (Ms. CANTWELL) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 1053, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

S. 1081

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1081, a bill to amend section 504(a) of the Higher Education Act of 1965 to eliminate the 2-year wait out period for grant recipients.

S. 1214

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1214, a bill to provide a partially refundable tax credit for caregiving related expenses.

S. 1287

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1287, a bill to amend section 502(a)(5) of the Higher Education Act of 1965 regarding the definition of a Hispanic-serving institution.

S. 1298

At the request of Mr. AKAKA, the names of the Senator from Maine (Ms. COLLINS) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1353

At the request of Mr. BROWNBACK, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1353, a bill to establish new special immigrant categories.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1409

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1409, a bill to provide funding for infrastructure investment to restore the United States economy and to enhance the security of transportation and environmental facilities throughout the United States.

S. 1531

At the request of Mr. HATCH, the names of the Senator from Oregon (Mr. SMITH), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mr. SCHUMER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1531, a bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

S. 1545

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1548

At the request of Mr. GRASSLEY, the names of the Senator from Montana (Mr. BURNS), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Indiana (Mr. LUGAR) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1548, a bill to amend the Internal Revenue Code of 1986 to provide incentives for the production of renewable fuels and to simplify the administration of the Highway Trust Fund fuel excise taxes, and for other purposes.

S. 1562

At the request of Mr. CRAIG, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1562, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under state law.

S. 1587

At the request of Mr. BIDEN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1587, a bill to make it a criminal act to willfully use a weapon, explosive, chemical weapon, or nuclear or radioactive material with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes.

S. 1602

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1602, a bill to amend the September 11th Victim Compensation Fund of 2001 to extend the deadline for filing a claim to December 31, 2004.

S. 1626

At the request of Mr. DAYTON, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1626, a bill to provide emergency disaster assistance to agricultural producers.

S. 1628

At the request of Mr. ALEXANDER, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1628, a bill to prescribe the oath of renunciation and allegiance for purposes of the Immigration and Nationality Act.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from New Jersey (Mr. CORZINE) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1670

At the request of Mr. DAYTON, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 1670, a bill to expand the Rest and Recuperation Leave program for members of the Armed Forces serving in the Iraqi theater of operations in support of Operation Iraqi Freedom to include travel and transportation to the members' permanent station or home.

S. 1681

At the request of Mr. BUNNING, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1681, a bill to exempt the natural aging process in the determination of the production period for distilled spirits under section 263A of the Internal Revenue Code of 1986.

S. 1684

At the request of Ms. LANDRIEU, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1684, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 1686

At the request of Mr. GRASSLEY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1686, a bill to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

S. 1695

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1695, a bill to provide greater oversight over the USA PATRIOT Act .

S. 1700

At the request of Mr. LEAHY, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1703

At the request of Mr. SMITH, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Kansas (Mr. BROWNBACK), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1708

At the request of Mr. KENNEDY, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1708, a bill to provide extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system.

S. 1714

At the request of Mr. CORZINE, the name of the Senator from New York

(Mr. SCHUMER) was added as a cosponsor of S. 1714, a bill to amend the National Housing Act to increase the maximum mortgage amount limit for FHA-insured mortgages for multifamily housing located in high-cost areas.

S. RES. 98

At the request of Mr. CAMPBELL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. Res. 98, a resolution expressing the sense of the Senate that the President should designate the week of October 12, 2003, through October 18, 2003, as ''National Cystic Fibrosis Awareness Week''.

S. RES. 202

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 205

At the request of Mr. COLEMAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Res. 205, a resolution expressing the sense of the Senate that a commemorative postage stamp should be issued on the subject of autism awareness.

AMENDMENT NO. 1811

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1811 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1816

At the request of Mr. DASCHLE, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 1816 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1818

At the request of Mr. BYRD, the names of the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 1818 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1825

At the request of Mr. BOND, the names of the Senator from Maine (Ms. COLLINS), the Senator from Washington (Ms. CANTWELL), the Senator from Florida (Mr. GRAHAM) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of amendment No. 1825 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1721. A bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the American Indian Probate Reform Act of 2003, which builds on the solid foundation laid in Indian Land Consolidation Act Amendments of 2000, P.L. 106–462, and S. 550, the Indian Probate Act of 2003, which I also sponsored. The bill I am introducing today would bring a number of greatly needed amendments to the Indian Land Consolidation Act Amendments of 2000, including a revised uniform Federal probate code applicable to trust and restricted Indian lands, and provisions that will facilitate the consolidation of interests in highly fractionated Indian lands.

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. 1721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Indian Probate Reform Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Act of February 8, 1887 (commonly known as the ''Indian General Allotment Act'') (25 U.S.C. 331 et seq.), which authorized the allotment of Indian reservations, did not permit Indian allotment owners to provide for the testamentary disposition of the land that was allotted to them;

(2) that Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment;

(3) the reliance of the Federal Government on the State law of intestate succession with respect to the descent of allotments has resulted in numerous problems affecting Indian tribes, members of Indian tribes, and the Federal Government, including

(A) the increasingly fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

(B) the application of different rules of intestate succession to each interest of a decedent in or to trust or restricted land if that land is located within the boundaries of more than 1 State, which application—

(i) makes probate planning unnecessarily difficult; and

(ii) impedes efforts to provide probate planning assistance or advice;

(C) the absence of a uniform general probate code for trust and restricted land, which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which—

(i) is unfair to the owners of trust and restricted land (and heirs and devisees of owners); and

(ii) makes probate planning more difficult; and

(4) a uniform Federal probate code would likely—

(A) reduce the number of fractionated interests in trust or restricted land;

(B) facilitate efforts to provide probate planning assistance and advice;

(C) facilitate intertribal efforts to produce tribal probate codes in accordance with section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

(D) provide essential elements of general probate law that are not applicable on the date of enactment of this Act to interests in trust or restricted land.

SEC. 3. INDIAN PROBATE REFORM.

(a) TESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (a) and inserting the following:

''(a) TESTAMENTARY DISPOSITION.—

''(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust or restricted land may devise such an interest to—

''(i) an Indian tribe with jurisdiction over the land; or

''(ii) any Indian; or

''(iii) any lineal descendant of the testator; or

''(iv) any person who owns a preexisting undivided trust or restricted interest in the same parcel of land;
in trust or restricted status.

''(B) RULE OF INTERPRETATION.—Any devise of an interest in trust or restricted land or personal property to a devisee listed in subparagraph (A) shall be considered to be a devise of the interest in trust or restricted status, unless—

''(i) language in the will clearly evidences the testator's intent that the interest is to vest in the devisee as a fee interest without restrictions; or

''(ii) the interest devised is a life estate.

''(2) DEVISE OF TRUST OR RESTRICTED LAND AS A LIFE ESTATE OR IN FEE.—

''(A) IN GENERAL.—Except as provided under any applicable Federal law, any interest in trust or restricted land that is not devised in accordance with paragraph (1) may be devised only—

''(i) as a life estate without regard to waste to any person, with the remainder being devised only in accordance with subparagraph (B) or paragraph (1); or

''(ii) except as provided in subparagraph (B), in fee to any person.

''(B) LIMITATION.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464), may be devised only in accordance with—

''(i) that section;

''(ii) subparagraph (A)(i); or

''(iii) paragraph (1).

''(3) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED PERSONAL PROPERTY.—

''(A) TRUST OR RESTRICTED PERSONAL PROPERTY DEFINED.—The term 'Trust or restricted personal property' as used in this section includes—

''(i) all funds and securities of any kind which are held in trust in an individual Indian money account or otherwise supervised for the decedent by the Secretary; and

''(ii) absent clear evidence to the contrary, all personal property permanently affixed to trust or restricted lands.

''(B) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of such trust or restricted personal property, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust or restricted personal property may devise such an interest to any person or entity.

''(C) MAINTENANCE AS TRUST OR RESTRICTED PERSONAL PROPERTY.—Except as provided in paragraph (1)(B), where an interest in trust or restricted personal property is devised to a devisee listed in paragraph (1)(A), the Secretary shall maintain and continue to manage such interests as trust or restricted personal property .

''(D) DIRECT DISBURSEMENT AND DISTRIBUTION.—In the case of a devise of an interest in trust or restricted personal property to a devisee not listed in paragraph (1)(A), the Secretary shall directly disburse and distribute such personal property to the devisee.

''(4) INELIGIBLE DEVISEES OF TRUST OR RESTRICTED INTEREST; INVALID WILLS.—Any interest in trust or restricted land or personal property that is devised as a trust or restricted interest to a devisee not listed in subparagraph (A) of paragraph (1) shall descend to the devisee as a fee interest. Any interest in trust or restricted land or personal property that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in subsection (b).''.

(b) NONTESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (b) and inserting the following:

''(b) NONTESTAMENTARY DISPOSITION.—

''(1) RULES OF DESCENT.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any interest in trust or restricted property, including personal property, that is not disposed of by a valid will—

''(A) shall descend according to a tribal probate code that is approved in accordance with section 206; or

''(B) in the case of an interest in trust or restricted property to which such a code does not apply, shall descend in accordance with—

''(i) paragraphs (2) through (4); and

''(ii) other applicable Federal law.

''(2) RULES GOVERNING DESCENT OF ESTATE.—

''(A) SURVIVING SPOUSE.—If there is a surviving spouse of the decedent, such spouse shall receive trust and restricted property in the estate as follows:

''(i) If the decedent is survived by an heir described in subparagraph (B) (i), (ii), (iii), or (iv), the surviving spouse shall receive ⅓ of the trust or restricted personal property of the decedent and a life estate without regard to waste in the interests in trust or restricted lands of the decedent.

''(ii) If there are no heirs described in subparagraph (B) (i), (ii), (iii), or (iv), the surviving spouse shall receive all of the trust or restricted personal property of the decedent and a life estate without regard to waste in the trust or restricted lands.

''(iii) The remainder shall pass as set forth in subparagraph (B).

''(B) INDIAN HEIRS.—Where there is no surviving spouse of the decedent, or there is a remainder pursuant to subparagraph (A), the estate or remainder of the decedent shall, subject to subparagraph (A), pass as follows:

''(i) To the Indian children of the decedent (or if 1 or more of those Indian children do not survive the decedent, the Indian children of the deceased child of the decedent, by right of representation, if such Indian children of the child survive the decedent) in equal shares.

''(ii) If the property does not pass under clause (i), to the surviving Indian great-grandchildren of the decedent in equal shares.

''(iii) If the property does not pass under clause (i) or (ii), to the surviving Indian brothers and sisters who are full siblings of the decedent or who are half-siblings by blood and not by marriage, in equal shares.

''(iv) If the property does not pass under clause (i), (ii), or (iii), to the Indian parent or parents of the decedent in equal shares.

''(v) If the property does not pass under clause (i), (ii), (iii), or (iv), to the Indian tribe with jurisdiction over the interests in trust or restricted lands;

except that notwithstanding clause (v), an Indian co-owner (including the Indian tribe referred to in clause (v)) of a parcel of trust or restricted land may acquire an interest that would otherwise descend under that clause by paying into the estate of the decedent, before the close of the probate of the estate, the fair market value of the interest in the land; if more than 1 Indian co-owner offers to pay for such interest, the highest bidder shall acquire the interest.

''(C) NO INDIAN TRIBE.—If there is no Indian tribe with jurisdiction over the interests in trust or restricted lands that would otherwise descend under subparagraph (B)(v), then such interests shall be divided equally among co-owners of trust or restricted interests in the parcel; if there are no such co-owners, then the Secretary shall accumulate and hold such interests in trust or restricted status for the Indian tribe or tribes from which the decedent descended.

''(3) RIGHT OF REPRESENTATION.—

''(A) IN GENERAL.—Subject to subparagraph (B)—

''(i) the interests passing to children and grandchildren of a decedent under paragraph (2) shall be divided into as many equal shares as there are surviving children of the decedent, deceased children who have died before the decedent without issue, and deceased children who have died before the decedent and have left grandchildren who survive the decedent; and

''(ii) 1 share shall pass to each surviving child of the decedent and 1 share shall pass equally divided among the surviving children of a deceased child.

''(B) EXCEPTION FOR HEIRS OF EQUAL CONSANGUINITY.—Notwithstanding subparagraph (A), when the persons entitled to take under subparagraph (B)(i) of paragraph (2) are all in the same degree of consanguinity to the decedent, they shall take in equal shares.

''(4) SPECIAL RULE RELATING TO SURVIVAL.—In the case of intestate succession under this subsection, if an individual fails to survive the decedent by at least 120 hours, as established by clear and convincing evidence—

''(A) the individual shall be deemed to have predeceased the decedent for the purpose of intestate succession; and

''(B) the heirs of the decedent shall be determined in accordance with this section.

''(5) STATUS OF INHERITED INTERESTS.—A trust or restricted interest in land or personal property that descends under the provisions of this subsection (not including any interest in land or personal property passing to a surviving spouse under paragraph (2)(A)) shall continue to have the same trust or restricted status in the hands of the heir as such interest had immediately prior to the decedent's death.''.

(c) Section 207(c) of the Indian Land Consolidation Act (25 U.S.C. 2206 (c)) is amended by striking all that follows the heading, ''JOINT TENANCY; RIGHT OF SURVIVORSHIP'', and inserting the following: ''If a testator devises interests in the same parcel of trust or restricted lands to more than 1 person, in the absence of express language in the devise to the contrary, the devise shall be presumed to create joint tenancy with the right of survivorship in the interests involved.''.

(d) RULE OF CONSTRUCTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(h) APPLICABLE FEDERAL LAW.—

''(1) IN GENERAL.—Any references in subsections (a) and (b) to applicable Federal law include—

''(A) Public Law 91–627 (84 Stat. 1874);

''(B) Public Law 92–377 (86 Stat. 530);

''(C) Public Law 92–443 (86 Stat. 744);

''(D) Public Law 96–274 (94 Stat. 537); and

''(E) Public Law 98–513 (98 Stat. 2411).

''(2) NO EFFECT ON LAWS.—Nothing in this section amends or otherwise affects the application of any law described in paragraph (1), or any other Federal law that provides for the devise and descent of any trust or restricted land located on a specific Indian reservation or for the devise and descent of the allotted lands of a specific tribe or specific tribes.

''(i) RULES OF INTERPRETATION.—In the absence of a contrary intent, and except as otherwise provided under this Act or a tribal probate code approved by the Secretary pursuant to section 206, wills shall be construed as to trust and restricted land and personal property in accordance with the following rules:

''(1) CONSTRUCTION THAT WILL PASSES ALL PROPERTY.—A will shall be construed to apply to all trust and restricted land and personal property which the testator owned at his death, including any such land or property acquired after the execution of his will.

''(2) CLASS GIFTS.—

''(A) Terms of relationship that do not differentiate relationships by blood from those by affinity, such as 'uncles', 'aunts', 'nieces' or 'nephews', are construed to exclude relatives by affinity. Terms of relationship that do not differentiate relationships by the half blood from those by the whole blood, such as 'brothers', 'sisters', 'nieces', or 'nephews', are construed to include both types of relationships.

''(B) MEANING OF 'HEIRS' AND 'NEXT OF KIN,' ETC; TIME OF ASCERTAINING CLASS.—A devise of trust or restricted land or trust funds to the testator's or another designated person's 'heirs', 'next of kin', 'relatives', or 'family' shall mean those persons, including the spouse, who would be entitled to take under the provisions of this Act for nontestamentary disposition. The class is to be ascertained as of the date of the testator's death.

''(C) TIME FOR ASCERTAINING CLASS.—In construing a devise to a class other than a class described in subparagraph (B), the class shall be ascertained as of the time the devise is to take effect in enjoyment. The surviving issue of any member of the class who is then dead shall take by right of representation the share which their deceased ancestor would have taken.

''(3) MEANING OF 'DIE WITHOUT ISSUE' AND SIMILAR PHRASES.—In any devise under this chapter, the words 'die without issue', 'die without leaving issue', 'have no issue', or words of a similar import shall be construed to mean that an individual had no lineal descendants in his lifetime or at his death, and not that there will be no lineal descendants at some future time.

''(4) PERSONS BORN OUT OF WEDLOCK.—In construing provisions of this chapter relating to lapsed and void devises, and in construing a devise to a person or persons described by relationship to the testator or to

another, a person born out of wedlock shall be considered the child of the natural mother and also of the natural father.

''(5) LAPSED AND VOID DEVISES AND LEGACIES; SHARES NOT IN RESIDUE.—Where a devise of property that is not part of the residuary estate fails or becomes void because—

''(A) the beneficiary has predeceased the testator;

''(B) the devise has been revoked by the testator; or

''(C) the devise has been disclaimed by the beneficiary;

the property shall, if not otherwise expressly provided for under this Act or a tribal probate code, pass under the residuary clause, if any, contained in the will.

''(6) LAPSED AND VOID DEVISES AND LEGACIES; SHARES IN RESIDUE.—When a devise as described in paragraph (7) shall be included in a residuary clause of the will and shall not be available to the issue of the devisee, and if the disposition shall not be otherwise expressly provided for by a tribal probate code, it shall pass to the other residuary devisees, if any, in proportion to their respective shares or interests in the residue.

''(7) FAMILY CEMETERY PLOT.—If a family cemetery plot owned by the testator at his decease is not mentioned in the decedent's will, the ownership of the plot shall descend to his heirs as if he had died intestate.

''(8) AFTER-BORN HEIRS.—A child in gestation at the time of decedent's death will be treated as having survived the decedent if the child lives at least 120 hours after its birth.

''(9) ADVANCEMENTS OF TRUST OR RESTRICTED PERSONAL PROPERTY DURING LIFETIME; EFFECT ON DISTRIBUTION OF ESTATE.—

''(A) The trust or restricted personal property of a decedent who dies intestate as to all or a portion of his or her estate, given during the decedent's lifetime to an heir of the decedent, shall be treated as an advancement against the heir's inheritance, but only if the decedent declared in a contemporaneous writing, or the heir acknowledged in writing, that the gift is an advancement or is to be taken into account in computing the division and distribution of the decedent's intestate estate.

''(B) For the purposes of this section, trust or restricted personal property advanced during the decedent's lifetime is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever occurs first.

''(C) If the recipient of the property predeceases the decedent, the property is not treated as an advancement or taken into account in computing the division and distribution of the decedent's intestate estate unless the decedent's contemporaneous writing provides otherwise.

''(10) HEIRS RELATED TO DECEDENT THROUGH 2 LINES; SINGLE SHARE.—A person who is related to the decedent through 2 lines of relationship is entitled to only a single share based on the relationship that would entitle the person to the larger share.

''(j) HEIRSHIP BY KILLING.—

''(1) 'HEIR BY KILLING' DEFINED.—As used in this subsection, 'heir by killing' means any person who participates, either as a principal or as an accessory before the fact, in the willful and unlawful killing of the decedent.

''(2) NO ACQUISITION OF PROPERTY BY KILLING.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, no heir by killing shall in any way acquire any interests in trust or restricted property as the result of the death of the decedent, but such property shall pass in accordance with this subsection.

''(3) DESCENT, DISTRIBUTION, AND RIGHT OF SURVIVORSHIP.—The heir by killing shall be deemed to have predeceased the decedent as to decedent's interests in trust or restricted property which would have passed from the decedent or his estate to the heir by killing—

''(A) under intestate succession under this chapter;

''(B) under a tribal probate code, unless otherwise provided for;

''(C) as the surviving spouse;

''(D) by devise;

''(E) as a reversion or a vested remainder;

''(F) as a survivorship interest; and

''(G) as a contingent remainder or executory or other future interest.

''(4) JOINT TENANTS, JOINT OWNERS, AND JOINT OBLIGEES.—

''(A) Any trust or restricted land or personal property held by only the heir by killing and the decedent as joint tenants, joint owners, or joint obligees shall pass upon the death of the decedent to his or her estate, as if the heir by killing had predeceased the decedent.

''(B) As to trust or restricted property held jointly by 3 or more persons, including both the heir by killing and the decedent, any income which would have accrued to the heir by killing as a result of the death of the decedent shall pass to the estate of the decedent as if the heir by killing had predeceased the decedent and any surviving joint tenants.

''(C) Notwithstanding any other provision of this subsection, the decedent's interest in trust or restricted property that is held in a joint tenancy with the right of survivorship shall be severed from the joint tenancy as though the property held in the joint tenancy were to be severed and distributed equally among the joint tenants and the decedent's interest shall pass to his estate; the remainder of the interests shall remain in joint tenancy with right of survivorship among the surviving joint tenants.

''(5) LIFE ESTATE FOR THE LIFE OF ANOTHER.—If the estate is held by a third person whose possession expires upon the death of the decedent, it shall remain in such person's hands for the period of the life expectancy of the decedent.

''(6) PREADJUDICATION RULE.—

''(A) IN GENERAL.—If a person has been charged, whether by indictment, information, or otherwise by the United States, a tribe, or any State, with voluntary manslaughter or homicide in connection with a decedent's death, then any and all trust or restricted land or personal property that would otherwise pass to that person from the decedent's estate shall not pass or be distributed by the Secretary until the charges have been resolved in accordance with the provisions of this paragraph.

''(B) DISMISSAL OR WITHDRAWAL.—Upon dismissal or withdrawal of the charge, or upon a verdict of not guilty, such land and funds shall pass as if no charge had been filed or made.

''(C) CONVICTION.—Upon conviction of such person, the trust and restricted land and personal property in the estate shall pass in accordance with this subsection.

''(7) BROAD CONSTRUCTION; POLICY OF SUBSECTION.—This subsection shall not be considered penal in nature, but shall be construed broadly in order to effect the policy that no person shall be allowed to profit by his own wrong, wherever committed.

''(k) GENERAL RULES GOVERNING PROBATE.—

''(1) SCOPE.—The provisions of this subsection shall apply only to estates that are subject to probate under the provisions of subsections (a) and (b).

''(2) PRETERMITTED SPOUSES AND CHILDREN.—

''(A) SPOUSES.—

''(i) IN GENERAL.—Except as provided in clause (ii), if the surviving spouse of a testator married the testator after the testator executed the will of the testator, the surviving spouse shall receive the intestate share in trust or restricted land that the spouse would have received if the testator had died intestate.

''(ii) EXCEPTION.—Clause (i) shall not apply to an interest in trust or restricted land where—

''(I) the will of a testator is executed before the date of enactment of this subparagraph;

''(II)(aa) the spouse of a testator is a non-Indian; and

''(bb) the testator devised the interests in trust or restricted land of the testator to 1 or more Indians;

''(III) it appears, based on an examination of the will or other evidence, that the will was made in contemplation of the marriage of the testator to the surviving spouse;

''(IV) the will expresses the intention that the will is to be effective notwithstanding any subsequent marriage; or

''(V)(aa) the testator provided for the spouse by a transfer of funds or property outside the will; and

''(bb) an intent that the transfer be in lieu of a testamentary provision is demonstrated by statements of the testator or through a reasonable inference based on the amount of the transfer or other evidence.

''(iii) SPOUSES MARRIED AT THE TIME OF THE WILL.—Should the surviving spouse of the testator be omitted from the will of the testator, the surviving spouse shall be treated, for purposes of trust or restricted land or personal property in the testator's estate, as though there was no will under the provisions of section 207(b)(2)(A) if—

''(I) the testator and surviving spouse were continuously married without legal separation for the 10-year period preceding the decedent's death;

''(II) the testator and surviving spouse have a surviving child who is the child of the testator;

''(III) the surviving spouse has made substantial payments on or improvements to the trust or restricted land in such estate; or

''(IV) the surviving spouse is under a binding obligation to continue making loan payments for the trust or restricted land for a substantial period of time;

except that if there is evidence that the testator adequately provided for the surviving spouse and any minor children by a transfer of funds or property outside of the will, this clause shall not apply.

''(iv) DEFINED TERMS.—The terms 'substantial payments or improvements' and 'substantial period of time' as used in subparagraph (A)(iii) (III) and (IV) shall have the meanings given to them in the regulations adopted by the Secretary under the provisions of this Act.

''(B) CHILDREN.—

''(i) IN GENERAL.—If a testator executed the will of the testator before the birth or adoption of 1 or more children of the testator, and the omission of the children from the will is a product of inadvertence rather than an intentional omission, the children shall share in the intestate interests of the decedent in trust or restricted land as if the decedent had died intestate.

''(ii) ADOPTED HEIRS.—Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (25 U.S.C. 372a), shall be treated as the child of a decedent under this subsection.

''(iii) ADOPTED-OUT CHILDREN.—

''(I) IN GENERAL.—For purposes of this Act, an adopted person shall not be considered the child or issue of his natural parents, except in distributing the estate of a natural

kin, other than the natural parent, who has maintained a family relationship with the adopted person. If a natural parent shall have married the adopting parent, the adopted person for purposes of inheritance by, from and through him shall also be considered the issue of such natural parent.

''(II) ELIGIBLE HEIR PURSUANT TO OTHER FEDERAL LAW OR TRIBAL LAW.—Notwithstanding the provisions of subparagraph (B)(iii)(I), other Federal laws and laws of the Indian tribe with jurisdiction over the trust or restricted land may otherwise define the inheritance rights of adopted-out children.

''(3) DIVORCE.—

''(A) SURVIVING SPOUSE.—

''(i) IN GENERAL.—An individual who is divorced from a decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death of the decedent.

''(ii) SEPARATION.—A decree of separation that does not dissolve a marriage, and terminate the status of husband and wife, shall not be considered a divorce for the purpose of this subsection.

''(iii) NO EFFECT ON ADJUDICATIONS.—Nothing in clause (i) prevents an entity responsible for adjudicating an interest in trust or restricted land from giving effect to a property right settlement if 1 of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

''(B) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—

''(i) IN GENERAL.—If, after executing a will, a testator is divorced or the marriage of the testator is annulled, as of the effective date of the divorce or annulment, any disposition of interests in trust or restricted land made by the will to the former spouse of the testator shall be considered to be revoked unless the will expressly provides otherwise.

''(ii) PROPERTY.—Property that is prevented from passing to a former spouse of a decedent under clause (i) shall pass as if the former spouse failed to survive the decedent.

''(iii) PROVISIONS OF WILLS.—Any provision of a will that is considered to be revoked solely by operation of this subparagraph shall be revived by the remarriage of a testator to the former spouse of the testator.

''(4) NOTICE.—

''(A) IN GENERAL.—To the maximum extent practicable, the Secretary shall notify each owner of trust and restricted land of the provisions of this Act.

''(B) COMBINED NOTICES.—The notice under subparagraph (A) may, at the discretion of the Secretary, be provided with the notice required under section 207(g).''.

SEC. 4. PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended by adding at the end the following:

''(c) PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.—

''(1) APPLICABILITY.—This subsection shall be applicable only to parcels of land (including surface and subsurface interests, except with respect to a subsurface interest that has been severed from the surface interest, in which case this subsection shall apply only to the surface interest) which the Secretary has determined, pursuant to paragraph (2)(B), to be parcels of highly fractionated Indian land.

''(2) REQUIREMENTS.—Subject to section 223 of this Act, but notwithstanding any other provision of law, the Secretary shall ensure that each partition action meets the following requirements:

''(A) REQUEST.—The Secretary shall commence a process for partitioning a parcel of land by sale in accordance with the provisions of this subsection upon receipt of an application by—

''(i) the Indian tribe with jurisdiction over the subject land that owns an undivided interest in the parcel of land; or

''(ii) any person owning an undivided trust or restricted interest in the parcel of land.

''(B) DETERMINATION.—Upon receipt of an application pursuant to subparagraph (A), the Secretary shall determine whether the subject parcel meets the requirements set forth in section 202(6) (25 U.S.C. 2201(6)) to be classified as a parcel of highly fractionated Indian land.

''(C) CONSENT REQUIREMENTS.—A parcel of land may be partitioned under this subsection only with the written consent of—

''(i) the Indian tribe with jurisdiction over the subject land if such Indian tribe owns an undivided interest in the parcel;

''(ii) any owner who, for the 3-year period immediately preceding the date on which the Secretary receives the application, has—

''(I) continuously maintained a bona fide residence on the parcel; or

''(II) continuously operated a bona fide farm, ranch, or other business on the parcel; and

''(iii) the owners of at least 50 percent of the undivided interests in the parcel if, based on the final appraisal prepared pursuant to subparagraph (F), the Secretary determines that any person's undivided trust or restricted interest in the parcel has a value in excess of $1,000, except that the Secretary may consent on behalf of undetermined heirs, minors, and legal incompetents having no legal guardian, and missing owners or owners whose whereabouts are unknown but only after a search for such owners has been completed in accordance with the provisions of this subsection.

''(D) PRELIMINARY APPRAISAL.—After the Secretary has determined that the subject parcel is a parcel of highly fractionated Indian land pursuant to subparagraph (B), the Secretary shall cause a preliminary appraisal of the subject parcel to be made.

''(E) NOTICE TO OWNERS ON COMPLETION OF PRELIMINARY APPRAISAL.—Upon completion of the preliminary appraisal, the Secretary shall give written notice of the requested partition and preliminary appraisal to all owners of undivided interests in the parcel, in accordance with the following requirements:

''(i) CONTENTS OF NOTICE.—The notice required by this subsection shall state—

''(I) that a proceeding to partition the parcel of land by sale has been commenced;

''(II) the legal description of the subject parcel;

''(III) the owner's ownership interest in the subject parcel;

''(IV) the results of the preliminary appraisal;

''(V) the owner's right to request a copy of the preliminary appraisal;

''(VI) the owner's right to comment on the proposed partition and the preliminary appraisal;

''(VII) the date by which the owner's comments must be received, which shall not be less than 60 days after the date that the notice is mailed or published under paragraph (2); and

''(VIII) the address for requesting copies of the preliminary appraisal and for submitting written comments.

''(ii) MANNER OF SERVICE.—

''(I) SERVICE BY MAIL.—The Secretary shall attempt to provide all owners of interests in the subject parcel with actual notice of the partition proceeding by mailing a copy of the written notice described in clause (i) by first class mail to each such owner at the owner's last known address. In the event the written notice to an owner is returned undelivered, the Secretary shall, in accordance with regulations adopted to implement the provisions of this section, attempt to obtain a current address for such owner by inquiring with—

''(aa) the owner's relatives, if any are known;

''(bb) the Indian tribe of which the owner is a member; and

''(cc) the Indian tribe with jurisdiction over the subject parcel.

''(II) SERVICE BY PUBLICATION.—In the event that the Secretary is unable to serve the notice by mail pursuant to subclause (II), the notice shall be served by publishing the notice 2 times in a newspaper of general circulation in the county or counties where the subject parcel of land is located.

''(F) FINAL APPRAISAL.—After reviewing and considering comments or information submitted by any owner of an interest in the parcel in response to the notice required under subparagraph (E), the Secretary may—

''(i) modify the preliminary appraisal and, as modified, determine it to be the final appraisal for the parcel; or

''(ii) determine that preliminary appraisal should be the final appraisal for the parcel, without modifications.

''(G) NOTICE TO OWNERS ON DETERMINATION OF FINAL APPRAISAL.—Upon making the determination under subparagraph (F) the Secretary shall provide to each owner of the parcel of land and the Indian tribe with jurisdiction over the subject land, written notice served in accordance with subparagraph (E)(ii) stating—

''(i) the results of the final appraisal;

''(ii) the owner's right to review a copy of the appraisal upon request; and

''(iii) that the land will be sold in accordance with subparagraph (G) for not less than the final appraised value subject to the consent requirements under paragraph (2)(C).

''(H) SALE.—Subject to the requirements of paragraph (2)(C), the Secretary shall—

''(i) provide every owner of the parcel of land and the Indian tribe with jurisdiction over the subject land with notice that—

''(I) the decision to partition by sale is final; and

''(II) each owner has the right to appeal the determination of the Secretary to partition the parcel of land by sale, including the right to appeal the final appraisal;

''(ii) after providing public notice of the sale pursuant to regulations adopted by the Secretary to implement this subsection, offer to sell the land by competitive bid for not less than the final appraised value to the highest bidder from among the following eligible bidders:

''(I) any owner of a trust or restricted interest in the parcel being sold;

''(II) the Indian tribe, if any, with jurisdiction over the parcel being sold; and

''(III) any member of the Indian tribe described in subclause (II); and

''(iii) if no bidder described in clause (ii) presents a bid that equals or exceeds the appraised value, provide notice to the owners of the parcel of land and terminate the partition process.

''(I) DECISION NOT TO SELL.—If the required owners do not consent to the partition by sale of the parcel of land, in accordance with paragraph (2)(C), by a date established by the Secretary, the Secretary shall provide each Indian tribe with jurisdiction over the subject land and each owner notice of that fact.

''(3) ENFORCEMENT.—

''(A) IN GENERAL.—If a partition is approved under this subsection and an owner of an interest in the parcel of land refuses to surrender possession in accordance with the partition decision, or refuses to execute any

conveyance necessary to implement the partition, then any affected owner or the United States may—

''(i) commence a civil action in the United States district court for the district in which the parcel of land is located; and

''(ii) request that the court issue an appropriate order for the partition of the land in kind or by sale.

''(B) FEDERAL ROLE.—With respect to any civil action brought under subparagraph (A)—

''(i) the United States—

''(I) shall receive notice of the civil action; and

''(II) may be a party to the civil action; and

''(ii) the civil action shall not be dismissed, and no relief requested shall be denied, on the ground that the civil action is 1 against the United States or that the United States is an indispensable party.

''(4) REGULATIONS.—The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this subsection.''.

SEC. 5. OWNER-MANAGED INTERESTS.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

''SEC. 221. OWNER-MANAGED INTERESTS.

''(a) PURPOSE.—The purpose of this section is to provide a means for the co-owners of trust or restricted interests in a parcel of land to enter into surface leases of such parcel without approval of the Secretary.

''(b) MINERAL INTERESTS.—Nothing in this section shall be construed to limit or otherwise affect the application of any Federal law requiring the Secretary to approve mineral leases or other agreements for the development of the mineral interest in trust or restricted land.

''(c) OWNER MANAGEMENT.—

''(1) IN GENERAL.—Notwithstanding any provision of Federal law requiring the Secretary to approve individual Indian leases or mortgages of individual Indian trust or restricted land, where the owners of all of the undivided trust or restricted interests in a parcel of land have submitted applications to the Secretary pursuant to subsection (a), and the Secretary has approved such applications under subsection (d), such owners may, without further approval by the Secretary, do either of the following with respect to their interest in such parcel:

''(A) Enter into a lease of the parcel for any purpose authorized by section 1 of the Act of August 9, 1955 (25 U.S.C. 415(a)), for an initial term not to exceed 25 years.

''(B) Renew any lease described in paragraph (1) for 1 renewal term not to exceed 25 years.

''(2) RULE OF CONSTRUCTION.—No such lease or renewal of a lease shall be effective until the owners of all undivided trust or restricted interests in the parcel have executed such lease or renewal.

''(d) APPROVAL OF APPLICATIONS FOR OWNER MANAGEMENT.—

''(1) IN GENERAL.—Subject to the provisions of paragraph (2), the Secretary shall approve an application for owner management submitted by a qualified applicant pursuant to this section unless the Secretary has reason to believe that the applicant is submitting the application as the result of fraud or undue influence.

''(2) COMMENCEMENT OF OWNER-MANAGEMENT STATUS.—Notwithstanding the approval of 1 or more applications pursuant to paragraph (1), no interest in a parcel of trust or restricted land shall have owner-management status until applications for all of the trust or restricted interests in such parcel have been submitted and approved by the Secretary pursuant to this section and in accordance with regulations adopted pursuant to subsection (l).

''(e) VALIDITY OF LEASES.—A lease of trust or restricted interests in a parcel of land that is owner-managed under this section that violates any requirement or limitation set forth in subsection (c) shall be null and void and unenforceable against the owners of such interests, or against the land, the interest or the United States.

''(f) LEASE REVENUES.—The Secretary shall not be responsible for the collection of, or accounting for, any lease revenues accruing to any interests subject to this section while such interest is in owner-management status under the provisions of this section.

''(g) JURISDICTION.—

''(1) JURISDICTION UNAFFECTED BY STATUS.—The Indian tribe with jurisdiction over an interest in trust or restricted land that becomes owner-managed in accordance with this section shall continue to have jurisdiction over the interest in trust or restricted land to the same extent and in all respects the tribe had prior to the interest acquiring owner managed status.

''(2) PERSONS USING LAND.—Any person holding, leasing, or otherwise using such interest in land shall be considered to consent to the jurisdiction of the Indian tribe with jurisdiction over the interest, including such tribe's laws and regulations, if any, relating to the use, and any effects associated with the use, of the interest.

''(h) CONTINUATION OF OWNER-MANAGED STATUS; REVOCATION.—

''(1) IN GENERAL.—Subject to the provisions of paragraph (2), after the applications of the owners of all of the trust or restricted interests in a parcel of land have been approved by the Secretary pursuant to subsection (d), each such interest shall continue in owner-managed status under this section notwithstanding any subsequent conveyance of the interest in trust or restricted status to another person or the subsequent descent of the interest in trust or restricted status by testate or intestate succession to 1 or more heirs.

''(2) REVOCATION.—Owner-managed status of an interest may be revoked upon written request of owners (including the parents or legal guardians of minors or incompetent owners) of all trust or restricted interests in the parcel, submitted to the Secretary in accordance with regulations adopted under subsection (l). The revocation shall become effective as of the date on which the last of all such requests have been delivered to the Secretary.

''(3) EFFECT OF REVOCATION.—Revocation of owner-managed status under paragraph (2) shall not affect the validity of any lease made in accordance with the provisions of this section prior to the effective date of the revocation, provided that, after such revocation becomes effective, the Secretary shall be responsible for the collection of, and accounting for, all future lease revenues accruing to the trust or restricted interests in the parcel from and after such effective date.

''(i) DEFINED TERMS.—

''(1) For purposes of subsection (d)(1), the term 'qualified applicant' means—

''(A) a person over the age of 18 who owns a trust or restricted interest in a parcel of land; and

''(B) the parent or legal guardian of a minor or incompetent person who owns a trust or restricted interest in a parcel of land.

''(2) For purposes of this section, the term 'owner-managed status' means, with respect to a trust or restricted interest, that the interest—

''(A) is a trust or restricted interest in a parcel of land for which applications covering all trust or restricted interests in such parcel have been submitted to and approved by the Secretary pursuant to subsection (d);

''(B) may be leased without approval of the Secretary pursuant to, and in a manner that is consistent with the requirements of, this section; and

''(C) no revocation has occurred under subsection (h)(2).

''(j) SECRETARIAL APPROVAL OF OTHER TRANSACTIONS.—Except with respect to the specific lease transactions described in paragraphs (1) and (2) of subsection (c), interests held in owner-managed status under the provisions of this section shall continue to be subject to all Federal laws requiring the Secretary to approve transactions involving trust or restricted land that would otherwise apply to such interests.

''(k) EFFECT OF SECTION.—Subject to subsections (c), (f), and (h), nothing in this section limits or otherwise affects any authority or responsibility of the Secretary with respect to an interest in trust or restricted land.

''(l) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.''.

SEC. 6. ADDITIONAL AMENDMENTS.

(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in the second sentence of section 205(a) (25 U.S.C. 2204(a)), by striking ''over 50 per centum of the undivided interests'' and inserting ''undivided interests equal to at least 50 percent of the undivided interest'';

''(2) in section 205 (25 U.S.C. 2204), by adding subsection (c) as follows:

''(c) PURCHASE OPTION AT PROBATE.—

''(1) IN GENERAL.—Subject to section 207(b)(2)(A) of this Act (25 U.S.C. 2206(b)(2)(A)), interests in a parcel of trust or restricted land in the decedent's estate may be purchased at probate in accordance with the provisions of this subsection.

''(2) SALE OF INTEREST AT MINIMUM FAIR MARKET VALUE.—Subject to paragraph (3), the Secretary is authorized to sell trust or restricted interests subject to this subsection at no less than fair market value to the highest bidder from among the following eligible bidders:

''(A) The heirs taking by intestate succession or the devisees listed in section 207(a)(1)(A).

''(B) All persons who own undivided trust or restricted interests in the same parcel of land involved in the probate proceeding.

''(C) The Indian tribe with jurisdiction over the interest, or the Secretary on behalf of such Indian tribe.

''(3) REQUEST FOR AUCTION.—No auction and sale of an interest in probate shall occur under this subsection unless—

''(A) except as provided in paragraph (6), the heirs or devises of such interest consent to the sale; and

''(B) a person or the Indian tribe eligible to bid on the interest under paragraph (2) submits a request for the auction prior to the distribution of the interest to heirs or devisees of the decedent and in accordance with any regulations of the Secretary.

''(4) APPRAISAL AND NOTICE.—Prior to the sale of an interest pursuant to this subsection, the Secretary shall—

(A) appraise the interest; and

(B) publish notice of the time and place of the auction (or the time and place for submitting sealed bids), a description, and the appraised value, of the interest to be sold.

''(5) RIGHTS OF SURVIVING SPOUSE.—Nothing in this subsection shall be construed to diminish or otherwise affect the rights of a surviving spouse under section 207(b)(2)(A).

''(6) HIGHLY FRACTIONATED INDIAN LANDS.—Notwithstanding paragraph (3)(A), the consent of an heir shall not be required for the auction and sale of an interest at probate under this subsection if—

''(A) the interest is passing by intestate succession; and

''(B) prior to the auction the Secretary determines that the interest involved is an interest in a parcel of highly fractionated Indian land.

''(7) REGULATIONS.—The Secretary shall promulgate regulations to implement the provisions of this subsection.'';

(3) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) TRIBAL PROBATE CODES.—Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prohibits the devise of an interest in trust or restricted land by—

''(A) an Indian lineal descendant of the original allottee; or

''(B) an Indian who is not a member of the Indian tribe with jurisdiction over such an interest;

unless the code provides for—

''(i) the renouncing of interests to eligible devisees in accordance with the code;

''(ii) the opportunity for a devisee who is the spouse or lineal descendant of a testator to reserve a life estate without regard to waste; and

''(iii) payment of fair market value in the manner prescribed under subsection (c)(2).''; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking the paragraph heading and inserting the following:

''(1) AUTHORITY.—

''(A) IN GENERAL.—'';

(II) in the first sentence of subparagraph (A) (as redesignated by clause (i)), by striking ''section 207(a)(6)(A) of this title'' and inserting ''section 207(a)(2)(A)(ii) of this title''; and

(III) by striking the last sentence and inserting the following:

''(B) TRANSFER.—The Secretary shall transfer payments received under subparagraph (A) to any person or persons who would have received an interest in land if the interest had not been acquired by the Indian tribe in accordance with this paragraph.''; and

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) by striking the subparagraph heading and all that follows through ''Paragraph (1) shall not apply'' and inserting the following:

''(A) INAPPLICABILITY TO CERTAIN INTERESTS.—

''(i) IN GENERAL.—Paragraph (1) shall not apply'';

(bb) in clause (i) (as redesignated by item (aa)), by striking ''if, while'' and inserting the following: ''if—

''(I) while'';

(cc) by striking the period at the end and inserting ''; or''; and

(dd) by adding at the end the following:

''(II)—

''(aa) the interest is part of a family farm that is devised to a member of the family of the decedent; and

''(bb) the devisee agrees that the Indian tribe with jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

''(ii) RECORDING OF INTEREST.—On request by an Indian tribe described in clause (i)(II)(bb), a restriction relating to the acquisition by the Indian tribe of an interest in a family farm involved shall be recorded as part of the deed relating to the interest involved.

''(iii) MORTGAGE AND FORECLOSURE.—Nothing in clause (i)(II) prevents or limits the ability of an owner of land to which that clause applies to mortgage the land or limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement in accordance with applicable law.

''(iv) DEFINITION OF 'MEMBER OF THE FAMILY'.—In this paragraph, the term 'member of the family', with respect to a decedent or landowner, means—

''(I) a lineal descendant of a decedent or landowner;

''(II) a lineal descendant of the grandparent of a decedent or landowner;

''(III) the spouse of a descendant or landowner described in subclause (I) or (II); and

''(IV) the spouse of a decedent or landowner.'';

(4) in subparagraph (B), by striking ''subparagraph (A)'' and all that follows through ''207(a)(6)(B) of this title'' and inserting ''paragraph (1)'';

(5) in section 207 (25 U.S.C. 2206), subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)'';

(6) in section 213 (25 U.S.C. 2212)—

(A) by striking the section heading and inserting the following:

''SEC. 2212. FRACTIONAL INTEREST ACQUISITION PROGRAM.'';

(B) in subsection (a)—

(i) by striking ''(2) AUTHORITY OF SECRETARY.—'' and all that follows through ''the Secretary shall submit'' and inserting the following:

''(2) AUTHORITY OF SECRETARY.—The Secretary shall submit''; and

(ii) by striking ''whether the program to acquire fractional interests should be extended or altered to make resources'' and inserting ''how the fractional interest acquisition program should be enhanced to increase the resources made'';

(C) in subsection (b), by striking paragraph (4) and inserting the following:

''(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under the pilot program under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

''(A) conveyance documents;

''(B) administrative proceedings; and

''(C) transactions.''.

(D) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking ''at least 5 percent of the'' and inserting in its place ''an'';

(II) in subparagraph (A), by inserting ''in such parcel'' following ''the Secretary shall convey an interest'';

(III) in subparagraph (A), by striking ''landowner upon payment'' and all that follows and inserting the following: ''landowner—

''(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

''(ii) if—

''(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

''(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner.''; and

(IV) in subparagraph (B), by inserting before the period at the end the following: ''unless the interest is subject to a foreclosure of a mortgage in accordance with the Act of March 29, 1956 (25 U.S.C. 483a)''; and

(ii) in paragraph (3), by striking ''10 percent or more of the undivided interests'' and inserting ''an undivided interest'';

(7) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

''(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PROGRAM.—

''(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) until the Secretary provides for the removal of the lien under paragraph (3), (4), or (5).

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Until the Secretary removes a lien from an interest in land under paragraph (1)—

''(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

''(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 213 shall be deposited in the fund created under section 216.

''(B) APPROVAL OF TRANSACTIONS.—Notwithstanding section 16 of the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act') (25 U.S.C. 476), or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

''(3) REMOVAL OF LIENS AFTER FINDINGS.—The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

''(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

''(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

''(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

''(4) REMOVAL OF LIENS UPON PAYMENT INTO THE ACQUISITION FUND.—The Secretary shall remove a lien referred to in paragraph (1) upon payment of an amount equal to the purchase price of that interest in land into the Acquisition Fund created under section 2215 of this title, except where the tribe with jurisdiction over such interest in land authorizes the Secretary to continue the lien in order to generate additional acquisition funds.

''(5) OTHER REMOVAL OF LIENS.—In accordance with regulations to be promulgated by the Secretary, and in consultation with tribal governments and other entities described in section 213(b)(3), the Secretary shall periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.'';

(8) in section 216 (25 U.S.C. 2215)—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

''(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213.''; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''Subject to paragraph (2), all'' and inserting ''All'';

(II) in subparagraph (A), by striking ''and'' at the end;

(III) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(IV) by adding at the end the following:

''(C) be used to acquire undivided interests on the reservation from which the income was derived.''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) USE OF FUNDS.—The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 205.'';

(9) in section 217 (25 U.S.C. 2216)—

(A) in subsection (b)(1) by striking subparagraph (B) and inserting a new subparagraph (B) as follows—

''(B) WAIVER OF REQUIREMENT.—The requirement for an estimate of value under subparagraph (A) may be waived in writing by an owner of an interest in trust or restricted land either selling, exchanging, or conveying by gift deed for no or nominal consideration such interest—

''(i) to an Indian person who is the owner's spouse, brother, sister, lineal ancestor, lineal descendant, or collateral heir; or

''(ii) to an Indian co-owner or to a tribe with jurisdiction over the subject parcel of land, where the grantor owns a fractional interest that represents 5 percent or less of the parcel.''.

(B) in subsection (e), by striking the matter preceding paragraph (1), and inserting ''Notwithstanding any other provision of law, the names and mailing addresses of the owners of any interest in trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual shall, upon written request, be made available to—'';

(C) in subsection (e)(1), by striking ''Indian'';

(D) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,''; and

(E) by striking subsection (f) and inserting the following:

''(f) PURCHASE OF LAND BY INDIAN TRIBE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of trust or restricted land, the Indian tribe with jurisdiction over the parcel shall have the opportunity—

''(A) to match any offer contained in the application; or

''(B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

''(2) EXCEPTION FOR FAMILY FARMS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to a parcel of trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 206(c)(2)(A)(iv)) if the conveyance requires that in the event that the interest is offered for sale to an entity that is not a member of the family of the landowner, the Indian tribe with jurisdiction over the land shall be afforded the opportunity to purchase the interest pursuant to paragraph (1).

''(B) APPLICABILITY OF OTHER PROVISION.—Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of any trust or restricted land referred to in subparagraph (A).''; and

(10) in section 219(b)(1)(A) (25 U.S.C. 2218(b)(1)(A)), by striking ''100'' and inserting ''90''.

(b) DEFINITIONS.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) 'Indian' means—

''(A) any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner (as of the date of enactment of the American Indian Probate Reform Act of 2003) of an interest in trust or restricted land;

''(B) any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder;

''(C) any person not included in subparagraph (A) or (B) who is a lineal descendant within 3 degrees of a person described in subparagraph (A);

''(D) an owner of a trust or restricted interest in a parcel of land for purposes of inheriting another trust or restricted interest in such parcel; and

''(E) with respect to the ownership, devise, or descent of trust or restricted land in the State of California, any person who meets the definition of 'Indians of California' contained in the first section of the Act of May 18, 1928 (25 U.S.C. 651), until otherwise provided by Congress in accordance with section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679)(b)).''; and

(2) by adding at the end the following:

''(6) 'Parcel of highly fractionated Indian land' means a parcel of land that the Secretary, pursuant to authority under a provision of this Act, determines to have at the time of the determination—

''(A)(i) 100 or more but less than 200 co-owners of undivided trust or restricted interests; and

''(ii) no undivided trust or restricted interest owned by any 1 person which represents more than 2 percent of the total undivided ownership of the parcel; or

''(B)(i) 200 or more but less than 350 co-owners of undivided trust or restricted interests; and

''(ii) no undivided trust or restricted interest owned by any 1 person which represents more than 5 percent of the total undivided ownership of the parcel; or

''(C) 350 or more co-owners of undivided trust or restricted interests.

''(7) 'Person' means a natural person.''.

(c) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348), is amended by striking the second proviso and inserting the following: '*Provided*, That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply to that land for which patents have been executed and delivered:''.

(d) TRANSFERS OF RESTRICTED INDIAN LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by—

(1) striking '', in accordance with'' and all that follows through ''or in which the subject matter of the corporation is located,'';

(2) striking '', except as provided by the Indian Land Consolidation Act'' and all that follows through the colon; and

(3) inserting ''in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):''.

(e) ESTATE PLANNING.—

(1) CONDUCT OF ACTIVITIES.—Section 207(f)(1) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking paragraph (1) and inserting the following—

''(1) IN GENERAL.—

''(A) The activities conducted under this subsection shall be conducted in accordance with any applicable—

''(i) tribal probate code; or

''(ii) tribal land consolidation plan.

''(B) The Secretary shall provide estate planning assistance in accordance with this subsection, to the extent amounts are appropriated for such purpose.''.

(2) REQUIREMENTS.—Section 207(f) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)) is amended by striking ''and'' at the end of subparagraph (A), redesignating subparagraph (B) as subparagraph (D), and adding the following—

''(B) dramatically increase the use of wills and other methods of devise among Indian landowners;

''(C) substantially reduce the quantity and complexity of Indian estates that pass intestate through the probate process, while protecting the rights and interests of Indian landowners; and''; and

(3) by striking ''(3) CONTRACTS.—'' and inserting the following—

''(3) INDIAN CIVIL LEGAL ASSISTANCE GRANTS.—In carrying out this section, the Secretary shall award grants to nonprofit entities, as defined under section 501(c)(3) of the Internal Revenue Code of 1986, which provide legal assistance services for Indian tribes, individual owners of interests in trust or restricted lands, or Indian organizations pursuant to Federal poverty guidelines which submit an application to the Secretary, in such form and manner as the Secretary may prescribe, for the provision of civil legal assistance to such Indian tribes, individual owners, and Indian organizations for the development of tribal probate codes, for estate planning services or for other purposes consistent with the services they provide to Indians and Indian tribes.''; and

(4) by adding at the end of section 207 (25 U.S.C. 2206) the following:

''(k) NOTIFICATION TO LANDOWNERS.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide to each Indian landowner a report that lists, with respect to each tract of trust or restricted land in which the Indian landowner has an interest—

''(A) the location of the tract of land involved;

''(B) the identity of each other co-owner of interests in the parcel of land; and

''(C) the percentage of ownership of each owner of an interest in the tract.

''(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall preclude any individual Indian from obtaining from the Secretary, upon the request of that individual, any information specified in paragraph (1) before the expiration of the 2-year period specified in paragraph (1).

''(3) REQUIREMENTS FOR NOTIFICATION.—Each notification made under paragraph (1) shall include information concerning estate planning and land consolidation options under the provisions of this Act and other applicable Federal law, including information concerning—

''(A) the preparation and execution of wills;

''(B) negotiated sales;

''(C) gift deeds;

''(D) exchanges; and

''(E) life estates without regard to waste.

''(4) PROHIBITION.—No individual Indian may be denied access to information relating to land in which that individual has an interest described in this section on the basis of section 552a of title 5, United States Code (commonly referred to as the 'Privacy Act').

''(1) PRIVATE AND FAMILY TRUSTS PILOT PROJECT.—

''(1) DEVELOPMENT PILOT PROJECT.—

''(A) The Secretary shall consult with tribes, individual landowner organizations, Indian advocacy organizations, and other interested parties to—

''(i) develop a pilot project for the creation and management of private and family trusts for interests in trust or restricted lands; and

''(ii) develop proposed rules, regulations, and guidelines to implement the pilot project.

''(B) The pilot project shall commence on the date of enactment of the American Indian Probate Reform Act of 2003 and shall continue for 3 years after the date of enactment of this subsection.

''(2) CHARACTERISTICS OF PRIVATE AND FAMILY TRUSTS.—For purposes of this subsection and any proposed rules, regulations, or guidelines developed under this subsection—

''(A) the terms 'private trust' and 'family trust' shall both mean trusts created pursuant to this subsection for the management and administration of interests in trust or restricted land, held by 1 or more persons, which comprise the corpus of a trust, by a private trustee subject to the approval of the Secretary;

''(B) private and family trusts shall be created and managed in furtherance of the purposes of the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.); and

''(C) private and family trusts shall not be construed to impair, impede, replace, abrogate, or modify in any respect the trust duties or responsibilities of the Secretary, nor shall anything in this subsection or in any rules, regulations, or guidelines developed under this subsection enable any private or family trustee of interests in trust or restricted lands to exercise any powers over such interests greater than that held by the Secretary with respect to such interests.

''(3) REPORT TO CONGRESS.—Prior to the expiration of the pilot project provided for under this subsection, the Secretary shall submit a report to Congress stating—

''(A) a description of the Secretary's consultation with Indian tribes, individual landowner associations, Indian advocacy organizations, and other parties consulted with regarding the development of rules, regulations, and/or guidelines for the creation and management of private and family trusts over interests in trust and restricted lands;

''(B) the feasibility of accurately tracking such private and family trusts;

''(C) the impact that private and family trusts would have with respect to the accomplishment of the goals of the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.); and

''(D) a final recommendation regarding whether to adopt the creation of a permanent private and family trust program as a management and consolidation measure for interests in trust or restricted lands.''.

SEC. 7. UNCLAIMED AND ABANDONED PROPERTY.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (as amended by section 5) is amended by adding at the end the following:

''SEC. 222. UNCLAIMED AND ABANDONED PROPERTY.

''(a) INTERESTS PRESUMED ABANDONED.—An undivided trust or restricted interest in a parcel of land owned by a person shall be presumed abandoned and subject to the provisions of this section if the Secretary makes a determination that—

''(1) a period of 6 consecutive years next preceding such determination has passed during which the person owning such interest has not made any indication or expression of interest in the trust or restricted interest as set forth in subsection (b);

''(2) the person owning the trust or restricted interest was, at all times during the 6-year period described in paragraph (1), over the age of 18; and

''(3) as of the expiration of the 6-year period described in paragraph (1), such parcel was a parcel of highly fractionated Indian land.

''(b) INDICATORS OF OWNER INTEREST.—For purposes of subsection (a), an indication or expression of an owner's interest in the property shall mean the owner or any person acting on behalf of the owner—

''(1) making a deposit to, withdrawal from, or inquiry into an individual Indian money account associated with such interest;

''(2) negotiating a Treasury check derived from such interest or account;

''(3) providing the Secretary with a valid address; or

''(4) communicating with the Secretary regarding such interest or account.

''(c) RELATED PROPERTY.—At the time that property is presumed to be abandoned under this section, any other property right accrued or accruing to the owner as a result of the interest, including funds in an associated individual Indian money account, that has not previously been presumed abandoned under this section, also shall be presumed abandoned.

''(d) ANNUAL LIST OF PROPERTY; NOTICE TO OWNERS.—No later than the first day of November of each year, the Secretary shall prepare and distribute a list of names of persons owning property presumed abandoned under this section during the preceding fiscal year and provide notice to such persons in accordance with the following requirements:

''(1) CONTENTS OF ANNUAL LIST.—The list shall set forth—

''(A) the names of all persons owning interests in land and property presumed to be abandoned under this section;

''(B) with respect to each person named on the list, the reservation, if any, and the county and State in which the person's interest in land is located;

''(C) the reservation, if any, the city or town, county and State of the person's last known address; and

''(D) the name, address, and telephone number of the official or officials within the Department of the Interior to contact for purposes of identifying persons or lands included on the list.

''(2) DISTRIBUTION OF LIST.—The list shall be distributed to all regional offices and agencies of the Bureau of Indian Affairs and to all reservations where land described on this list is located and shall cause the list to be published in the Federal Register within 15 days after the list is prepared.

''(3) NOTICE BY MAIL.—In addition to publishing and distributing the list described in paragraph (1), the Secretary shall attempt to provide the persons owning such trust or restricted interests with actual written notice that the interest and any associated funds or property is presumed abandoned under the provisions of this section. Such notice shall be sent by first class mail to the owner at the owner's last known address and shall include the following:

''(A) A legal description of the parcel of which the interest is a part.

''(B) A description of the owner's interest.

''(C) A statement that the owner has not indicated or expressed an interest in the trust or restricted interest for a period of 6 consecutive years and that such interest, and any funds in an associated individual Indian money account, is presumed abandoned.

''(D) A statement that the interest will be appraised and sold for its appraised value unless the owner responds to the notice within 60 days after the notice is mailed or published.

''(E) A statement that in the event the owner fails to respond and the notice and the property is sold, the proceeds of such sale and any funds in any associated individual Indian money account will be deposited in an unclaimed property account.

''(4) SEARCH FOR WHEREABOUTS OF OWNER.—If the notice described in paragraph (3) is returned undelivered, the Secretary shall attempt to locate the owner by—

''(A) searching publicly available records and Federal records, including telephone and address directories and using electronic search methods;

''(B) inquiring with—

''(i) the owner's relatives, if any are known;

''(ii) any Indian tribe of which the owner is a member; and

''(iii) the Indian tribe, if any, with jurisdiction over the interest; and

''(C) if the value of the interest and any funds in an associated individual Indian money account exceeds $1,000, engaging an independent search firm to perform a missing person search.

''(5) NOTICE BY PUBLICATION.—In the event that the Secretary is unable to locate the owner pursuant to paragraph (4), the Secretary shall publish a notice not later than November 30 following the fiscal year in which the property was presumed to be abandoned under this section. The notice shall include the same information required for the notice described in paragraph (3) and shall be—

''(A) published in a newspaper of general circulation on or near the apparent owner's home reservation and near the last known address of the owner; and

''(B) in a form that is likely to attract the attention of the apparent owner of the property.

''(e) CONVERSION OF ABANDONED INTERESTS.—If, after 2 years from the date the notice is published under subsection (d)(3), any such real property or interest therein remains unclaimed, the Secretary shall appraise such property in a manner consistent with section 215 of the Indian Land Consolidation Act (25 U.S.C. 2214) and shall purchase the property at its appraised value, or sell the property to an Indian tribe with jurisdiction over such property or a person who owns an undivided trust or restricted interest in such property, by competitive bid for not less than the appraised value. The Secretary shall then transfer any monetary interest that the Secretary holds for the previous apparent owner to the unclaimed property account described in subsection (f).

''(f) UNCLAIMED PROPERTY ACCOUNT.—

''(1) Except as otherwise provided by this section, the Secretary shall promptly deposit in a special unclaimed property account all funds received under this section. The Secretary shall pay all claims under subsection (g) from this account. The Secretary shall record the name and last known address of each person appearing to be entitled to the property.

''(2) The Secretary is authorized to use interest earned on the special unclaimed property account to pay—

''(A) the administrative costs of conversion of real property under subsection (g); and

''(B) costs of mailing and publication in connection with abandoned property.

''(3) The Secretary shall retain a sufficient balance in the account at all times from which to pay claims duly allowed. All other funds shall be available to the Secretary to use for the purposes of land consolidation pursuant to 25 U.S.C. 2212.

''(g) CLAIMS.—

''(1) FILING OF CLAIM.—An individual, or the heirs of an individual, may file a claim to recover property or the proceeds of the conversion of the property on a form prescribed by the Secretary.

''(2) ALLOWANCE OR DENIAL OF CLAIM.—Not more than 180 days after a claim is filed, the Secretary shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Secretary shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Secretary or maintain an action under this subsection.

''(3) PAYMENT OF ALLOWED CLAIM.—Not more than 60 days after a claim is allowed, the property or the net proceeds of the conversion of the property shall be delivered or paid by the Secretary to the claimant, together with any interest, or other increment to which the claimant is entitled under this section.

''(4) JUDICIAL REVIEW.—An individual aggrieved by a decision of the Secretary under this subsection or whose claim has not been acted upon within 180 days may, after exhausting administrative remedies, seek—

''(A) judicial review or other appropriate relief against the Secretary in a United States district court, which may include an order quieting beneficial title in the name of petitioner whose property was sold by the Secretary in violation of this section; and

''(B) recover reasonable attorneys fees if he is the prevailing party.

''(h) VOLUNTARY ABANDONMENT.—Any person who is an owner of an interest subject to this section may, with the Secretary's approval, voluntarily abandon that interest to the benefit of the tribe with jurisdiction over the parcel of land or a co-owner of a trust or restricted interest in the same parcel of land in accordance with regulations adopted pursuant to subsection (j).

''(i) TRANSFER OF ABANDONED INTERESTS IN LAND.—

''(1) Any interest in land acquired under subsection (e) or (h) over which an Indian tribe has jurisdiction shall be held in trust by the Secretary for the benefit of that tribe, provided that the tribe may decline any such property in its discretion, and provided that if the tribe declines or does not currently own any interest within that parcel a co-owner with a majority interest shall have the first right of purchase of the property at the appraised price.

''(2) Any interest in real property acquired under subsection (e) or (h) that is not subject to the jurisdiction of an Indian tribe shall be held in trust by the Secretary for all of the other co-owners of undivided trust or restricted interests in the parcel in proportion to their respective interests in the property, provided that any owner may decline to accept such interest, in which case that interest shall be allocated proportionately among such other co-owners who do not decline.

''(3) The Indian tribe or other subsequent owner described in paragraph (2) takes such interest free of all claims by the owner who abandoned the interest and of all persons claiming through or under such owner.

''(j) REGULATIONS.—The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this section.''.

SEC. 8. MISSING HEIRS.

Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding the following:

''(m) NOTICE.—Prior to holding a hearing to determine the heirs to trust or restricted property, or making a decision determining such heirs, the Secretary shall seek to provide actual written notice of the proceedings to all heirs, including notice of the provisions of this subsection and of section 207(n) of this Act. Such efforts shall include—

''(1) a search of publicly available records and Federal records, including telephone and address directories and including electronic search methods;

''(2) an inquiry with family members and co-heirs of the property;

''(3) an inquiry with the tribal government of which the owner is a member, and the tribal government with jurisdiction over the property, if any; and

''(4) if the property is of a value greater than $1,000, an independent firm shall be contracted to conduct a missing persons search.

''(n) MISSING HEIRS.—

''(1) For purposes of this subsection and subsection (m), an heir will be presumed missing if his whereabouts remain unknown 60 days after completion of notice efforts under subsection (m) and they have had no contact with other heirs or the Department for 6 years prior to a hearing or decision to ascertain heirs.

''(2) Before the date for declaring an heir missing, any person may request an extension of time to locate an heir. An extension may be granted for good cause.

''(3) An heir shall be declared missing only after a review of the efforts made and a finding that this section has been complied with.

''(4) A missing heir shall be presumed to have predeceased the decedent for purposes of descent and devise.''.

SEC. 9. ANNUAL NOTICE AND FILING REQUIREMENT FOR OWNERS OF INTERESTS IN TRUST OR RESTRICTED LANDS.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (as amended by section 7) is amended by adding at the end the following:

''SEC. 222. ANNUAL NOTICE AND FILING; CURRENT WHEREABOUTS OF INTEREST OWNERS.

''(a) IN GENERAL.—On an annual basis, the Secretary shall send a notice, response form, and a change of name and address form to each owner of an interest in trust or restricted land. The notice shall inform owners of their interest and obligation to provide the Secretary with a notice of any change in their name or address immediately upon such change. The response form should include a section in which the owner may confirm or update his name and address. The change of name and address form may be used by the owner at any time when his name or address changes subsequent to his annual filing of the response form.

''(b) OWNER RESPONSE.—The owner of an interest in trust or restricted land shall file the response form upon receipt to confirm or update his name and address on an annual basis.

''(c) NO RESPONSE; INITIATION OF SEARCH.—In the event that an owner does not file the response form or provide the Secretary with a confirmation or update of his name and address through other means, the Secretary shall initiate a search in order to ascertain the whereabouts and status of the owner.''.

SEC. 10. EFFECTIVE DATE.

The amendments made by this Act shall not apply to the estate of an individual who dies before the later of—

(1) the date that is 1 year after the date of enactment of this Act; or

(2) the date specified in section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)(5)).

By Mr. DOMENICI:

S. 1727. A bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise today to introduce crucial legislation regarding the safety of America's Dams. Ensuring the safety of the Bureau of Reclamation's dams must be a national priority. One of the surest ways to protect the integrity of this existing infrastructure is to ensure that adequate funding is accessible to properly maintain and rehabilitate these great structures.

The Bureau of Reclamation has existing authority that would allow them to expend approximately $974 million dollars on Safety of Dam Projects; but only $109 million dollars of this authorization remains uncommitted. By the end of fiscal year 2002, over 61 dam modifications had been completed under existing authority. Over the next several years, at least 46 projects have been identified as critical. Unfortunately, these projects alone represent an additional authorization need of close to $540 million. Thus, a huge gap exists and it is something we must correct. The bill that I am introducing today, would raise the current ceiling on the Safety of Dams Program to meet the additional $540 million needed and by so doing to meet the needs already identified by Reclamation in 11 of the 17 Reclamation States.

Let me take a few moments to highlight exactly what it is I am talking about. The United States Bureau of Reclamation currently has reservoirs impounded by 457 dams and dikes. Of these structures, 362 dams and dikes would likely cause loss of life if they were to fail. These 362 structures, located at 252 different project facilities, form the core of Reclamation's Dam Safety Program.

Approximately 50 percent of Reclamation's dams were built between 1900 and 1950. Additionally, an estimated 90 percent of the dams were built before currently used state-of-the-art design and construction practices. A strong dam safety program must be maintained to identify potential adverse performance within Reclamation's inventory of aging dams and to carry out corrective actions expeditiously when unreasonable public risk is identified.

I plan to take action on this measure during this Congress and I urge my colleagues to join with me in ensuring the safety and reliability of these dams. 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. 1727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR THE RECLAMATION SAFETY OF DAMS ACT OF 1978.

(a) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—Section 4(c) of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508(c)) is amended by striking ''(c) With respect to''

and all that follows through ''2001'' and inserting the following:

''(c) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—With respect to the additional amounts authorized to be appropriated by section 5''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended in the first sentence—

(1) by striking ''and effective October 1, 2001'' and inserting ''effective October 1, 2001'';

(2) by inserting ''and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels),'' after ''(October 1, 2001, price levels),''; and

(3) by striking ''$750,000'' and inserting ''$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes,''.

By Mr. GRAHAM of Florida (for himself and Ms. SNOWE):

S. 1729. A bill to establish an informatics grant program for hospitals and skilled nursing facilities in order to encourage health care providers to make major information technology advances; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, I am very pleased to introduce the Medication Errors Reduction Act of 2003 with my friend and colleague Senator OLYMPIA SNOWE.

In recent years we've heard much about the consequences of medication errors. What we haven't heard as much about are the root causes for the medication errors, or the solutions that are available to us to reduce errors, save lives, prevent injuries, and reduce costs. Simply put, our legislation is necessary because as a nation we face a serious patient-safety problem. The good news is that we have a solution to the problem: we have the technological ability to dramatically reduce medication errors and thus save lives.

The bad news is that the start-up costs and a lack of awareness have to this point been preventing us from reaping the benefits of the new technologies. The solution is right in front of us, but has been just out of reach.

The legislation we are introducing today would bring the solution within our reach. It would address the causes of medication errors—which are systems breakdowns—and the solutions—use of clinical computerized information systems that can save lives.

We are here today to lend a helping hand, not to point a finger. We all share the goal of improving patient safety, and our bill will do that in a very simple, straightforward manner. The legislation establishes a voluntary grant program to encourage hospitals and skilled nursing facilities to become the pioneers of new, life-saving technologies. It does that by assisting with the often prohibitive start-up costs associated with purchasing and implementing information systems—systems that are designed to reduce medication errors and improve patient safety.

I want to stress the goal of this legislation: to help build a safer medication-delivery system. The great successes of our health care system are largely due to our highly committed and talented doctors, nurses, pharmacists, hospitals, nursing homes and other health care providers. The problem we are addressing today is not theirs, but is a problem with the system they rely on to provide inpatient care.

The Institute of Medicine report that kicked off much of this discussion 4 years ago tells us that we must address the ''systems problems'' and design systems that will prevent errors—just as cars are designed so that drivers cannot start them while in reverse helps prevent automobile accidents.

The systems we want to fund would improve the medication-delivery system at many stages.

We leave it up to the hospitals and nursing homes to determine exactly what types of technology would best fit their institutions and their needs. The grants could be used to purchase or improve computer software and hardware, purchase or lease communications capabilities, or provide education and training staff on computer patient safety programs.

The grants could be used to improve patient safety at every stage of the medication delivery process. For example, a hospital or nursing home could use the funds to implement 1. electronic prescribing systems that can intercept errors at the time medications are ordered, 2. electronic medical records to alert doctors to possible drug interactions and complications related to the patient's medical history, 3. automated pharmacy dispensing to make sure the nurse receives the correct medication in the correct dosage for the correct patient, and 4. bedside verification—using bar codes on patient wristbands and the medications to ensure that the right medication is administered to the right patient at the right time.

We could only have dreamed about clinical computerized information systems when the Medicare program was implemented. Today, we have them at our disposal. The sooner we get them into our hospitals and nursing homes, the sooner we start saving lives.

The Medication Errors Reduction Act is supported by the Florida Hospital Association, National Rural Health Association, National Association of Children's Hospitals, Healthcare Leadership Council, AFSCME, Federation of American Hospitals, Catholic Health Association of the United States, Association of American Medical Colleges, Premier, Inc., the American Society of Heath-System Pharmacists, McKesson Corporation, IBM, VHA, Inc., Vanderbilt University Medical Center, New York Presbyterian Hospital, Aetna, Siemens, AmerisourceBergen Corporation, American Health Packaging, AutoMed, Choice Systems, Inc., Pharmacy Healthcare Solutions, Telepharmacy Solutions, Verizon, Becton Dickinson, American Health Care Association, AFL–CIO, Cardinal Health, and the eHealth Initiative.

I ask their letters of support to be included for the RECORD. With their help, this bill will become law and we will be well on our way to improving patient safety.

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

OCTOBER *13, 2003*.

Hon. ROBERT GRAHAM,
U.S. Senate,

Hon. OLYMPIA SNOWE,
U.S. Senate,

Hon. AMO HOUGHTON,
House of Representatives,

Hon. EARL POMEROY,
House of Representatives,
Washington, DC.

DEAR SENATORS GRAHAM AND SNOWE AND REPRESENTATIVES HOUGHTON AND POMERY: Long engaged in efforts to improve patient safety, the undersigned organizations strongly support the ''Medication Errors Reduction Act of 2003.'' This critical legislation would fund efforts to improve our nation's clinical safety systems. Since the release of the 1999 Institute of Medicine report, *to Err is Human*, we have collectively embraced a more vigorous commitment to the advancement of patient safety in our healthcare system.

Concern over improving the quality of our nation's health care extends far beyond the provider community. The business community, consumers, and Labor have an equally vested interest. While the issues surrounding the improvement of patient safety are numerous and complex, we agree that the facilitated deployment of new technologies to certain providers would be of immense benefit. Further, we believe that clinical healthcare informatics systems designed to reduce the incidence of adverse events and complications stemming from medication errors great promise.

New and evolving technologies like computer physician order-entry (CPOE), bedside verification, and automated pharmacy dispensing could prove particularly beneficial to many healthcare providers. Still, sizable barriers to acquisition and deployment exist. The inability to finance such systems in perhaps the most insurmountable—but the easiest to address, as well. This legislation would permit providers and their patients to reap the rewards of these critical patient safety improvement technology tools.

Again, we thank you for having introduced the ''Medication Errors Reduction Act of 2003,'' and look forward to working with you toward enactment.

Sincerely,
Premier, Inc.;
IBM;
VHA, Inc.;
Vanderbilt University Medical Center;
New York Presbyterian Hospital;
Aetna;
McKession Corporation;
Siemens;
AmerisourceBergen Corporation;
American Health Packaging;
AutoMed;
Choice Systems, Inc.;
Pharmacy Healthcare Solutions;
Telepharmacy Solutions;
National Rural Health Association;
National Association of Children's Hospitals;
Verizon;
Becton Dickenson;
Federation of American Hospitals;
American Health Care Association;
AFL–CIO;
Cardinal Health;

American Society of Health-System Pharmacists;
Healthcare Leadership Council;
eHealth Initiative;
Catholic Health Association of the United States;
Association of American Medical Colleges; and
AFSCME.

PREMIER ADVOCACY,
September 12, 2003.

Hon. ROBERT GRAHAM,
U.S. Senate,

Hon. OLYMPIA SNOWE,
U.S. Senate,

Hon. AMO HOUGHTON,
House of Representatives,

Hon. EARL POMEROY,
House of Representatives,
Washington, DC.

DEAR SENATORS GRAHAM AND SNOWE AND REPRESENTATIVES HOUGHTON AND POMEROY:

On behalf of the more than 1,500 leading not-for-profit hospitals and health systems allied in Premier, Inc., and the millions of patients whose healthcare needs they serve, we extend our vigorous support for the Medication Errors Reduction Act of 2003.

This innovative legislation would provide grants to hospitals and nursing facilities to offset the prohibitively high costs of developing and implementing new patient safety and information technologies to reduce medical errors and adverse events. As such, the measure would undoubtedly contribute to the sustained improvement of quality health care in America.

The legislation's establishment of a ten-year, $1 billion grant program would effectively mitigate the most formidable barrier to hospitals' implementation of new, life-saving technologies—namely, cost. In this way, the efforts of early adopters of new technologies are simultaneously rewarded and facilitated.

As you know, Premier is a long-standing champion of patient safety and quality improvement. At present, we are hosting a series of collaborative meetings designed to help members implement and adopt computerized physician order entry (CPOE). Participation by hospital executives, including CIOs, CMOs and CEOs, as well as their CPOE project leaders, facilitate and energize the exchange of knowledge and experience, which are invaluable to the advancement of CPOE adoption. In addition, Premier has long championed industry adoption of the bar code for drug, biological, and appropriate medical device labeling to reduce the incidence of adverse events, and improve patient safety overall.

Premier and its member hospitals believe that the Medication Errors Reduction Act represents a significant step on the path to improved patient care. We applaud your efforts, and look forward to working with you toward passage of this critical legislation.

Sincerely,

HERB KUHN,
Corporate Vice President.

MCKESSON CORPORATION,
San Francisco, CA, September 12, 2003.

Hon. BOB GRAHAM,
U.S. Senate,

Hon. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATORS GRAHAM AND SNOWE: On behalf of McKesson Corporation, I would like to thank you for authorizing the Medication Errors Reduction Act of 2003. We strongly support this legislation and applaud your leadership in identifying ways to help reduce medication errors and improve the quality of health care in our nation.

As the world's largest healthcare services company, McKesson provides automation, information systems, and pharmacy services that enable medication management accuracy. We have pioneered advances in medication management technology by providing hospitals, retail pharmacies and other clinical settings with unique robotic pharmaceutical dispensing and bedside bar-coding technologies to ensure that the right drug, in the appropriate dosage, is administered to the right patient via the right route at the right time. In addition, McKesson provides computerized physician order systems, pharmacy information systems, and clinical consulting services designed to improve the quality and delivery of health care.

As early as 1993, the University of Wisconsin Hospitals and Clinics (UWHC) embraced McKesson's automation and bar code solutions for pharmaceutical distribution. Building on this system, they have implemented point-of-care bar code scanning at the bedside. In partnership with McKesson on clinical programs and adverse drug event tracking, UWHC has demonstrated a significant reduction in medication errors, enhanced efficiency, increased clinician satisfaction, and improved medication documentation. As an example of these successes,they have achieved an 89 percent reduction in medication administration errors due to point-of-care bar code scanning, as well as a reduction in dispensing errors from 1.43 percent to 0.13 percent. UWHC also realized a return on investment in two years.

We commend you for recognizing the need for economic incentives to accelerate the adoption of innovative technology so critically needed in today's health care environment. By providing grants to hospitals and skilled nursing facilities, your legislation will facilitate the widespread use of technology designed to prevent medication errors and enhance patient safety. We stand ready to work with you and your staff to support passage of this legislation.

Sincerely,

ANN RICHARDSON BERKEY,
Vice President, Public Affairs.

AMERICAN SOCIETY OF HEALTH-SYSTEM PHARMACISTS,
Bethesda, MD, September 17, 2003.

Hon. ROBERT GRAHAM,
U.S. Senate, Washington, DC.
Hon. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.
Hon. AMO HOUGHTON,
House of Representatives,
Washington, DC.
Hon. EARL POMEROY,
House of Representatives,
Washington, DC.

DEAR SENATORS GRAHAM AND SNOWE AND REPRESENTATIVES HOUGHTON AND POMEROY: The American Society of Health-System Pharmacists (ASHP), the 30,000-member national professional association that represents pharmacists who practice in hospitals, health maintenance organizations, long-term care facilities, home care, and other components of health care systems, would like to commend you on introduction of the ''Medication Errors Reduction Act of 2003.''

The Institute of Medicine (IOM) report, To Err is Human: Building a Safer Health System, pointed out as many as 98,000 patients die annually as the result of medical errors, 7,000 of which are the direct result of medication-related complications. Handwritten clinical data, incomplete, outdated, or improperly implemented information technology within our nation's health system contributes to the high number of adverse events or health care complications due to medication use.

Research demonstrates that information technology enhancements, when appropriately implemented, enhance the appropriate, accurate, and timely distribution of medications, and improve the quality of patient care.

The voluntary grant program for which your legislation provides would allow early adopters of new technology to meet the high price tag associated with this technology as well as the necessary and important expense of properly educating and training staff on the correct use of the information system.

ASHP hopes to foster a fail-safe medication process. Your legislation helps move toward that goal and we look forward to a continued partnership to make this a reality. For more information, please contact Kathleen M. Cantwell, Director, Federal Legislative Affairs and Government Affairs Counsel, at 301/657–3000, ext. 1326.

Sincerely,

HENRI R. MANASSE, Jr.,
Executive Vice President and
Chief Executive Officer.

FLORIDA HOSPITAL ASSOCIATION,
October 14, 2003.

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the more than 230 members of the Florida Hospital Association, I want to commend you for introducing legislation to provide financial assistance to help hospitals take patient safety to the next level. Your bill, the ''Medication Errors Reduction Act of 2003,'' represents a significant step toward assisting hospitals in Florida and throughout the country in their continuous efforts to improve their clinical safety systems.

Your initiative recognizes that our commitment to patient safety requires more financial resources than are currently available to hospitals, which continue to experience extraordinary financial pressures. You are a realist—matching resources in support of a great need.

The FHA will encourage other members of the Florida Congressional Delegation to support your bill—a measure that targets our desire to improve patient safety. It will be important for the bill to retain its clear focus, and not become weighted down with extraneous legislative baggage that could change its focus.

Thank you for moving so swiftly to help us protect patients while protecting the integrity of the Hospital Trust Fund.

Sincerely yours,

WAYNE NESMITH,
President.

Ms. SNOWE. Mr. President, I rise today to join my colleague, Senator BOB GRAHAM of Florida, in reintroducing the Medication Errors Reduction Act, which will serve to improve the quality of health care delivered in hospitals and skilled nursing facilities by reducing medical errors. The lack of quality assurances in America's health care system has been documented many times. We believe this bill is the first step in the process to correct this troubling circumstance and to ensure that the American health system is the world's safest.

We first began development of this legislation in 2001, following the release of the Institute of Medicine's (IOM) report ''To Err Is Human: Building a Safer Health System.'' We were prompted by the startling revelations contained in the report that showed up

to 98,000 people per year lose their lives because of a medical error and the annual financial impact that results from these mistakes is believed to be as high as $29 billion.

As you might imagine, a medical error can be many things, but the Institute defines it as ''the failure of a planned action to be completed as intended or the use of a wrong plan to achieve an aim.'' The Institute sites among the problems that commonly occur during the course of providing health care—adverse drug events and improper transfusions, surgical injuries and wrong-site surgery, suicides, restraint-related injuries or death, falls, burns, pressure ulcers and mistaken patient identities. All of these can have tragic endings, but all are preventable.

In developing the solution, we looked to incentives that would prompt hospitals and skilled nursing facilities to utilize technology to identify inaccuracies and prevent medical errors before they happen. Senator GRAHAM and I developed a proposal that provides Federal matching funds to hospitals and skilled nursing facilities that integrate into their medical systems technology that can prevent medical errors. Technology exists, as never before, that can help identify errors before they happen, and save lives. But this technology is rendered useless if it is not being utilized. That is why the Federal Government must step forward and provide the necessary incentives to prompt innovation.

In taking this step, we believe it is imperative that the Federal Government invest time and funding in not just identifying the solution, but to provide the means to implement the solution. It is the role of the Federal Government to lead, and I believe that providing grant funding to hospitals and skilled nursing facilities to integrate technology into their health care delivery systems will in fact provide the necessary leadership to see this idea become a reality.

More specifically, the grants provided by this legislation can be used to purchase or improve computer software and hardware, and provide education and training to staff on computer patient safety programs. They also may be used to improve patient safety at every stage of the medication delivery process through: electronic prescribing systems that can intercept errors at the time medications are ordered; electronic medical records to alert doctors to possible drug interactions and complications related to the patient's medical history; automated pharmacy dispensing to make sure the nurse receives the correct medication in the correct dosage for the correct patient; and bedside verification—using bar codes on patient wristbands and the medications to ensure that the right medication is administered to the right patient at the right time.

Further, we direct the funding to hospitals that serve predominately patients who receive insurance coverage through Medicare, Medicaid and S–CHIP. And to ensure that all hospitals, especially those in rural communities that have smaller operating margins, can afford to utilize this innovative new program, we set aside 20 percent of the funding for rural hospitals. I believe this is an important and necessary step to protect our rural communities and provide families with the highest quality care.

I hope my colleagues will join us in support of this legislation so we soon will be able to reduce the number of Americans who are harmed by medical errors.

By Ms. SNOWE (for herself, Mrs. MURRAY, Mr. BIDEN, and Mrs. FEINSTEIN):

S. 1730. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to reintroduce the Women's Health and Cancer Rights Act. I am pleased to be joined by my friends, Senator MURRAY of Washington and Senator BIDEN of Delaware, and Senator FEINSTEIN of California, as original cosponsors of this bill.

This bill has a two-fold purpose. First, it will ensure that appropriate medical care determines how long a woman stays in the hospital after undergoing a mastectomy—not a predetermined amount of time legislated by Congress. This provision says that inpatient coverage with respect to the treatment of mastectomy, lumpectomy, or lymph node dissection—regardless of whether the patient's plan is regulated by ERISA or State regulations—will be provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate. Second, this bill allows any person facing a cancer diagnosis of any type to get a second opinion on their course of treatment.

A diagnosis of breast cancer is something that every woman dreads. But for an estimated 192,020 American women, this is the year their worst fears will be realized. One thousand new cases of breast cancer will be diagnosed among the women in Maine, and 200 women in my home State will die from this tragic disease. The fact is, one in nine women will develop breast cancer during their lifetime, and for women between the ages of 35 and 54, there is no other disease which will claim more lives.

It's not hard to understand why the words ''you have breast cancer'' are some of the most frightening words in the English language. For the woman who hears them, everything changes from that moment forward. No wonder, then, that it is a diagnosis not only accompanied by fear, but also by uncertainty. What will become of me? What will they have to do to me? What will I have to endure? What's the next step?

For many women, the answer to that last question is a mastectomy or lumpectomy. Despite the medical and scientific advances that have been made, despite the advances in early detection technology that more and more often negate the need for radical surgery, it still remains a fact of life at the beginning of the 21st century these procedures can be the most prudent option in attacking and eradicating cancer found in a woman's breast.

These are the kind of decisions that come with a breast cancer diagnosis. These are the kind of questions women must answer, and they must do so under some of the most stressful and frightening circumstances imaginable. The last question a woman should have to worry about at a time like this is whether or not their health insurance plan will pay for appropriate care after a mastectomy or lumpectomy, or that she won't be able to remain in a doctor's immediate care for as long as she needs to be. A woman diagnosed with breast cancer in many ways already feels as though she has lost control of her life. She should not feel as though she has also lost control of her course of treatment.

The evidence for the need for this bill—especially when it comes to so-called ''drive through mastectomies'', is more than just allegorical. Indeed, the facts speak for themselves—between 1986 and 1995, the average length of stay for a mastectomy dropped from about six days to about two to three days. Thousands of women across the country are undergoing radical mastectomies on an outpatient basis and are being forced out of the hospital before either they or their doctor think it's reasonable or prudent.

This decision must be returned to physicians and their patients, and all Americans who face the possibility of a cancer diagnosis must be able to make informed decisions about appropriate and necessary medical care.

I urge my colleagues to join me in supporting this bill and work towards passing it this year.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1828. Mr. COCHRAN (for himself, Mr. CRAPO, Mr. DOMENICI, Mrs. LINCOLN, Mr. CRAIG, Mr. WYDEN, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. BAUCUS, Ms. MURKOWSKI, Mr. THOMAS, Mr. DASCHLE, Mr. BURNS, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes; which was ordered to lie on the table.

SA 1829. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1830. Mr. BINGAMAN (for himself, Mr. LUGAR, Mr. LIEBERMAN, Mr. BAYH, Mrs. CLINTON, Mr. DURBIN, Ms. LANDRIEU, Mrs. LINCOLN, Mr. SMITH, Mr. REID, Mr. CORZINE, Mr. CONRAD, Mr. BYRD, Mr. LEAHY, and Mr. JEFFORDS) proposed an amendment to the bill S. 1689, supra.

SA 1831. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1832. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1833. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1834. Mr. REED (for himself, Mr. HAGEL, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1689, supra.

SA 1835. Mr. REID (for himself and Mrs. LINCOLN) proposed an amendment to the bill S. 1689, supra.

SA 1836. Mr. REID proposed an amendment to the bill S. 1689, supra.

SA 1837. Mr. DURBIN (for himself, Ms. MIKULSKI, and Mr. CORZINE) proposed an amendment to the bill S. 1689, supra.

TEXT OF AMENDMENTS

SA 1828. Mr. COCHRAN (for himself, Mr. CRAPO, Mr. DOMENICI, Mrs. LINCOLN, Mr. CRAIG, Mr. WYDEN, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. BAUCUS, Ms. MURKOWSKI, Mr. THOMAS, Mr. DASCHLE, Mr. BURNS, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1 through title I and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Healthy Forests Restoration Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to reduce wildfire risk to communities, municipal water supplies, and other at-risk Federal land through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects;

(2) to authorize grant programs to improve the commercial value of forest biomass (that otherwise contributes to the risk of catastrophic fire or insect or disease infestation) for producing electric energy, useful heat, transportation fuel, and petroleum-based product substitutes, and for other commercial purposes;

(3) to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape;

(4) to promote systematic gathering of information to address the impact of insect and disease infestations and other damaging agents on forest and rangeland health;

(5) to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and

(6) to protect, restore, and enhance forest ecosystem components—

(A) to promote the recovery of threatened and endangered species;

(B) to improve biological diversity; and

(C) to enhance productivity and carbon sequestration.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEDERAL LAND.—The term ''Federal land'' means—

(A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C 1609(a))) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C 1702)), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

TITLE I—HAZARDOUS FUEL REDUCTION ON FEDERAL LAND

SEC. 101. DEFINITIONS.

In this title:

(1) AT-RISK COMMUNITY.—The term ''at-risk community'' means an area—

(A) that is comprised of—

(i) an interface community as defined in the notice entitled ''Urban Wildlife Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire'' issued by the Secretary of Agriculture and the Secretary of the Interior in accordance with title IV of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 1009) (66 Fed. Reg. 753, January 4, 2001); or

(ii) a group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) within or adjacent to Federal land;

(B) in which conditions are conducive to a large-scale wildland fire disturbance event; and

(C) for which a significant threat to human life or property exists as a result of a wildland fire disturbance event.

(2) AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECT.—The term ''authorized hazardous fuel reduction project'' means the measures and methods described in the definition of ''appropriate tools'' contained in the glossary of the Implementation Plan, on Federal land described in section 102(a) and conducted under sections 103 and 104.

(3) COMMUNITY WILDFIRE PROTECTION PLAN.—The term ''community wildfire protection plan'' means a plan for an at-risk community that—

(A) is developed within the context of the collaborative agreements and the guidance

established by the Wildland Fire Leadership Council and agreed to by the applicable local government, local fire department, and State natural resources department, in consultation with interested parties and the Federal land management agencies managing land in the vicinity of the at-risk community;

(B) identifies and prioritizes areas for hazardous fuel reduction treatments and recommends the types and methods of treatment on Federal and non-Federal land that will protect 1 or more at-risk communities and essential infrastructure; and

(C) recommends measures to reduce structural ignitability throughout the at-risk community.

(4) CONDITION CLASS 2.—The term ''condition class 2'', with respect to an area of Federal land, means the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled ''Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management'' (RMRS–87), dated April 2000 (including any subsequent revision to the report), under which—

(A) fire regimes on the land have been moderately altered from historical ranges;

(B) there exists a moderate risk of losing key ecosystem components from fire;

(C) fire frequencies have increased or decreased from historical frequencies by 1 or more return intervals, resulting in moderate changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been moderately altered from the historical range of the attributes.

(5) CONDITION CLASS 3.—The term ''condition class 3'', with respect to an area of Federal land, means the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (4) (including any subsequent revision to the report), under which—

(A) fire regimes on land have been significantly altered from historical ranges;

(B) there exists a high risk of losing key ecosystem components from fire;

(C) fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been significantly altered from the historical range of the attributes.

(6) DAY.—The term ''day'' means—

(A) a calendar day; or

(B) if a deadline imposed by this title would expire on a nonbusiness day, the end of the next business day.

(7) DECISION DOCUMENT.—The term ''decision document'' means—

(A) a decision notice (as that term is used in the Forest Service Handbook);

(B) a decision record (as that term is used in the Bureau of Land Management Handbook); and

(C) a record of decision (as that term is used in applicable regulations of the Council on Environmental Quality).

(8) FIRE REGIME I.—The term ''fire regime I'' means an area—

(A) in which historically there have been low-severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low elevation forests of pine, oak, or pinyon juniper.

(9) FIRE REGIME II.—The term ''fire regime II'' means an area—

(A) in which historically there are stand replacement severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low- to mid-elevation rangeland, grassland, or shrubland.

(10) FIRE REGIME III.—The term ''fire regime III'' means an area—

(A) in which historically there are mixed severity fires with a frequency of 35 through 100 years; and

(B) that is located primarily in forests of mixed conifer, dry Douglas fir, or wet Ponderosa pine.

(11) IMPLEMENTATION PLAN.—The term ''Implementation Plan'' means the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the conference report to accompany the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106–64) (and subsequent revisions).

(12) MUNICIPAL WATER SUPPLY SYSTEM.—The term ''municipal water supply system'' means the reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, and other surface facilities and systems constructed or installed for the collection, impoundment, storage, transportation, or distribution of drinking water.

(13) RESOURCE MANAGEMENT PLAN.—The term ''resource management plan'' means—

(A) a land and resource management plan prepared for 1 or more units of land of the National Forest System described in section 3(1)(A) under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan prepared for 1 or more units of the public land described in section 3(1)(B) under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(14) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, with respect to land of the National Forest System described in section 3(1)(A); and

(B) the Secretary of the Interior, with respect to public lands described in section 3(1)(B).

(15) THREATENED AND ENDANGERED SPECIES HABITAT.—The term ''threatened and endangered species habitat'' means Federal land identified in—

(A) a determination that a species is an endangered species or a threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) a designation of critical habitat of the species under that Act; or

(C) a recovery plan prepared for the species under that Act.

(16) WILDLAND-URBAN INTERFACE.—The term ''wildland-urban interface'' means—

(A) an area within or adjacent to an at-risk community that is identified in recommendations to the Secretary in a community wildfire protection plan; or

(B) in the case of any area for which a community wildfire protection plan is not in effect—

(i) an area extending ½-mile from the boundary of an at-risk community;

(ii) an area extending more than ½-mile from the boundary of an at-risk community, if the land adjacent to the at-risk community—

(I) has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community; or

(II) has a geographic feature that aids in creating an effective fire break, such as a road or ridge top, within ¾-mile of the nearest at-risk community boundary; and

(iii) an area that is adjacent to an evacuation route for an at-risk community that the Secretary determines, in cooperation with the at-risk community, requires hazardous fuel reduction to provide safer evacuation from the at-risk community.

SEC. 102. AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECTS.

(a) AUTHORIZED PROJECTS.—As soon as practicable after the date of enactment of this Act, the Secretary shall implement authorized hazardous fuel reduction projects, consistent with the Implementation Plan, on—

(1) Federal land in wildland-urban interface areas;

(2) condition class 3 Federal land, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(3) condition class 2 Federal land located within fire regime I, fire regime II, or fire regime III, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(4) Federal land on which windthrow or blowdown, ice storm damage, or the existence of disease or insect infestation, poses a significant threat to an ecosystem component, or forest or rangeland resource, on the Federal land or adjacent non-Federal land;

(5) Federal land not covered by paragraphs (1) through (4) that contains threatened and endangered species habitat, if—

(A) natural fire regimes on that land are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or habitat of an endangered species or threatened species in a species recovery plan prepared under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or a notice published in the Federal Register determining a species to be an endangered species or a threatened species or designating critical habitat;

(B) the authorized hazardous fuel reduction project will provide enhanced protection from catastrophic wildfire for the endangered species, threatened species, or habitat of the endangered species or threatened species; and

(C) the Secretary complies with any applicable guidelines specified in any management or recovery plan described in subparagraph (A).

(b) RELATION TO AGENCY PLANS.—An authorized hazardous fuel reduction project shall be conducted consistent with the resource management plan and other relevant administrative policies or decisions applicable to the Federal land covered by the project.

(c) ACREAGE LIMITATION.—Not more than a total of 20,000,000 acres of Federal land may be treated under authorized hazardous fuel reduction projects.

(d) EXCLUSION OF CERTAIN FEDERAL LAND.—The Secretary may not conduct an authorized hazardous fuel reduction project that would occur on—

(1) a component of the National Wilderness Preservation System;

(2) Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is prohibited or restricted; or

(3) a Wilderness Study Area.

(e) OLD GROWTH STANDS.—

(1) DEFINITIONS.—In this subsection and subsection (f):

(A) COVERED PROJECT.—The term ''covered project'' means an authorized hazardous fuel reduction project carried out under paragraph (1), (2), (3), or (5) of subsection (a).

(B) OLD GROWTH STAND.—The term ''old growth stand'' has the meaning given the term under standards used pursuant to paragraphs (3) and (4), based on the structure and composition characteristic of the forest type, and in accordance with applicable law, including section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(g)(3)(B)).

(C) STANDARDS.—The term ''standards'' means definitions, designations, standards, guidelines, goals, or objectives established for an old growth stand under a resource management plan developed in accordance with applicable law, including section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(g)(3)(B)).

(2) PROJECT REQUIREMENTS.—In carrying out a covered project, the Secretary shall fully maintain, or contribute toward the restoration of, the structure and composition of old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth structure.

(3) NEWER STANDARDS.—

(A) IN GENERAL.—If the standards for an old growth stand were established during the 10-year period ending on the date of enactment of this Act, the Secretary shall meet the requirements of paragraph (2) by implementing the standards.

(B) AMENDMENTS OR REVISIONS.—Any amendment or revision to standards for which final administrative approval is granted after the date of enactment of this Act shall be consistent with paragraph (2).

(4) OLDER STANDARDS.—

(A) IN GENERAL.—If the standards for an old growth stand were established before the 10-year period described in paragraph (3)(A), the Secretary shall meet the requirements of paragraph (2) by implementing the standards—

(i) during the 2-year period beginning on the date of enactment of this Act; or

(ii) if the Secretary is in the process of revising a resource management plan as of the date of enactment of this Act, during the 3-year period beginning on the date of enactment of this Act.

(B) REVIEW REQUIRED.—During the applicable period described in subparagraph (A) for the standards for an old growth stand under a resource management plan, the Secretary shall—

(i) review the standards, taking into account any relevant scientific information made available since the adoption of the standards; and

(ii) revise the standards to be consistent with paragraph (2), if necessary to reflect relevant scientific information the Secretary did not consider in formulating the resource management plan.

(C) REVIEW NOT COMPLETED.—

(i) IN GENERAL.—If the Secretary does not complete the review of the standards in accordance with subparagraph (B), during the period described in clause (ii), the Secretary shall not carry out any portion of a covered project in a stand that is identified as an old growth stand (based on substantial supporting evidence) by any person during scoping.

(ii) PERIOD.—Clause (i) applies during the period—

(I) beginning on the termination of the applicable period for the standards described in subparagraph (A); and

(II) ending on the date the Secretary completes the action required by subparagraph (B) for the standards.

(5) EFFECT ON CIVIL ACTIONS.—A person may bring a civil action based on standards for an old growth stand under a resource management plan only by challenging a plan amendment, plan revision, or project implementing the standards of the plan, in accordance with applicable provisions of law (including the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)).

(f) LARGE TREE RETENTION.—Subject to subsection (e), the Secretary shall carry out a covered project in a manner that—

(1) focuses largely on small diameter trees, thinning, strategic fuel breaks, and prescribed fire to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and

(2) maximizes the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands and the purposes of section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1976 (16 U.S.C. 1604(g)(3)(B)).

(g) MONITORING AND ASSESSING FOREST AND RANGELAND HEALTH.—

(1) IN GENERAL.—For each Forest Service administrative region and each Bureau of Land Management State Office, the Secretary shall—

(A) monitor the results of the projects authorized under this section; and

(B) not later than 5 years after the date of enactment of this Act, and each 5 years thereafter, issue a report that includes—

(i) an evaluation of the progress towards project goals; and

(ii) recommendations for modifications to the projects and management treatments.

(2) CONSISTENCY OF PROJECTS WITH RECOMMENDATIONS.—An authorized hazardous fuel reduction project approved following the issuance of a monitoring report shall, to the maximum extent practicable, be consistent with any applicable recommendations in the report.

(3) SIMILAR VEGETATION TYPES.—The results of a monitoring report shall be made available in, and (if appropriate) used for, a project conducted in a similar vegetation type on land under the jurisdiction of the Secretary.

(4) MONITORING AND ASSESSMENTS.—From a representative sample of authorized hazardous fuel reduction projects, for each management unit, monitoring and assessment shall include a description of the effects on changes in condition class, using the Fire Regime Condition Class Guidebook or successor guidance, specifically comparing end results to—

(A) pretreatment conditions;

(B) historical fire regimes; and

(C) any applicable watershed or landscape goals or objectives in the resource management plan or other relevant direction.

(5) TRACKING.—For each management unit, the Secretary shall track acres burned, by the degree of severity, by large wildfires (as defined by the Secretary).

(6) MONITORING AND MAINTENANCE OF TREATED AREAS.—The Secretary shall, to the maximum extent practicable, develop a process for monitoring the need for maintenance of treated areas, over time, in order to preserve the forest health benefits achieved.

SEC. 103. PRIORITIZATION.

(a) IN GENERAL.—In accordance with the Implementation Plan, the Secretary shall develop an annual program of work for Federal land that gives priority to authorized hazardous fuel reduction projects that provide for the protection of at-risk communities or watersheds or that implement community wildfire protection plans.

(b) COLLABORATION.—

(1) IN GENERAL.—The Secretary shall consider recommendations under subsection (a) that are made by at-risk communities that have developed community wildfire protection plans.

(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the planning process and recommendations concerning community wildfire protection plans.

(c) ADMINISTRATION.—

(1) IN GENERAL.—Federal agency involvement in a community wildfire protection plan, or a recommendation made in a community wildfire protection plan, shall not be considered a Federal agency action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) COMPLIANCE.—In implementing authorized hazardous fuel reduction projects on Federal land, the Secretary shall, in accordance with section 104, comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) FUNDING ALLOCATION.—

(1) FEDERAL LAND.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall use not less than 50 percent of the funds allocated for authorized hazardous fuel reduction projects in the wildland-urban interface.

(B) APPLICABILITY AND ALLOCATION.—The funding allocation in subparagraph (A) shall apply at the national level, and the Secretary may allocate the proportion of funds differently than is required under subparagraph (A) within individual management units as appropriate, in particular to conduct authorized hazardous fuel reduction projects on land described in section 102(a)(4).

(2) NON-FEDERAL LAND.—In providing financial assistance under any provision of law for authorized hazardous fuel reduction projects on non-Federal land, the Secretary shall consider recommendations made by at-risk communities that have developed community wildfire protection plans.

SEC. 104. ENVIRONMENTAL ANALYSIS.

(a) AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECTS.—Except as otherwise provided in this title, the Secretary shall conduct authorized hazardous fuel reduction projects in accordance with—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.); and

(2) other applicable laws.

(b) ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENTS.—

(1) IN GENERAL.—The Secretary shall prepare an environmental assessment or an environmental impact statement (pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2))) for any authorized hazardous fuel reduction project.

(2) ALTERNATIVES.—In the environmental assessment or environmental impact statement prepared under paragraph (1), the Secretary shall study, develop, and describe—

(A) the proposed agency action;

(B) the alternative of no action; and

(C) an additional action alternative, if the additional alternative—

(i) is proposed during scoping or the collaborative process; and

(ii) meets the purpose and need of the project, in accordance with regulations promulgated by the Council on Environmental Quality.

(3) MULTIPLE ADDITIONAL ALTERNATIVES.—If more than 1 additional alternative is proposed under paragraph (2)(C), the Secretary shall—

(A) select which additional alternative to consider; and

(B) provide a written record describing the reasons for the selection.

(c) PUBLIC NOTICE AND MEETING.—

(1) PUBLIC NOTICE.—The Secretary shall provide notice of each authorized hazardous fuel reduction project in accordance with applicable regulations and administrative guidelines.

(2) PUBLIC MEETING.—During the preparation stage of each authorized hazardous fuel reduction project, the Secretary shall—

(A) conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal land on which the authorized hazardous fuel reduction project will be conducted; and

(B) provide advance notice of the location, date, and time of the meeting.

(d) PUBLIC COLLABORATION.—In order to encourage meaningful public participation during preparation of authorized hazardous fuel reduction projects, the Secretary shall facilitate collaboration among State and local governments and Indian tribes, and participation of interested persons, during the preparation of each authorized fuel reduction project in a manner consistent with the Implementation Plan.

(e) ENVIRONMENTAL ANALYSIS AND PUBLIC COMMENT.—In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines, the Secretary shall provide an opportunity for public comment during the preparation of any environmental assessment or environmental impact statement for an authorized hazardous fuel reduction project.

(f) DECISION DOCUMENT.—The Secretary shall sign a decision document for authorized hazardous fuel reduction projects and provide notice of the final agency actions.

(g) PROJECT MONITORING.—In accordance with the Implementation Plan, the Secretary shall monitor the implementation of authorized hazardous fuel reduction projects.

SEC. 105. SPECIAL ADMINISTRATIVE REVIEW PROCESS.

(a) INTERIM FINAL REGULATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process for the period described in paragraph (2) that will serve as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on Forest Service land.

(2) PERIOD.—The predecisional administrative review process required under paragraph (1) shall occur during the period—

(A) beginning after the completion of the environmental assessment or environmental impact statement; and

(B) ending not later than the date of the issuance of the final decision approving the project.

(3) EFFECTIVE DATE.—The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.

(b) FINAL REGULATIONS.—The Secretary shall promulgate final regulations to establish the process described in subsection (a)(1) after the interim final regulations have been published and reasonable time has been provided for public comment.

(c) ADMINISTRATIVE REVIEW.—

(1) IN GENERAL.—A person may bring a civil action challenging an authorized hazardous fuel reduction project in a Federal district court only if the person has challenged the authorized hazardous fuel reduction project by exhausting—

(A) the administrative review process established by the Secretary of Agriculture under this section; or

(B) the administrative hearings and appeals procedures established by the Department of the Interior.

(2) ISSUES.—An issue may be considered in the judicial review of an action under section 106 only if the issue was raised in an administrative review process described in paragraph (1).

(3) EXCEPTION.—An exception to the requirement of exhausting the administrative review process before seeking judicial review shall be available if a Federal court finds that the futility or inadequacy exception applies to a specific plaintiff or claim.

SEC. 106. JUDICIAL REVIEW IN UNITED STATES DISTRICT COURTS.

(a) VENUE.—Notwithstanding section 1391 of title 28, United States Code, or other applicable law, an authorized hazardous fuels reduction project conducted under this title shall be subject to judicial review only in the United States district court for the district in which the Federal land to be treated under the authorized hazardous fuels reduction project is located.

(b) EXPEDITIOUS COMPLETION OF JUDICIAL REVIEW.—In the judicial review of an action challenging an authorized hazardous fuel reduction project under subsection (a), Congress encourages a court of competent jurisdiction to expedite, to the maximum extent practicable, the proceedings in the action with the goal of rendering a final determination on jurisdiction, and (if jurisdiction exists) a final determination on the merits, as soon as practicable after the date on which a complaint or appeal is filed to initiate the action.

(c) INJUNCTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the length of any preliminary injunctive relief and stays pending appeal covering an authorized hazardous fuel reduction project carried out under this title shall not exceed 60 days.

(2) RENEWAL.—

(A) IN GENERAL.—A court of competent jurisdiction may issue 1 or more renewals of any preliminary injunction, or stay pending appeal, granted under paragraph (1).

(B) UPDATES.—In each renewal of an injunction in an action, the parties to the action shall present the court with updated information on the status of the authorized hazardous fuel reduction project.

(3) BALANCING OF SHORT- AND LONG-TERM EFFECTS.—As part of its weighing the equities while considering any request for an injunction that applies to an agency action under an authorized hazardous fuel reduction project, the court reviewing the project shall balance the impact to the ecosystem likely affected by the project of—

(A) the short- and long-term effects of undertaking the agency action; against

(B) the short- and long-term effects of not undertaking the agency action.

SEC. 107. EFFECT OF TITLE.

(a) OTHER AUTHORITY.—Nothing in this title affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority (including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) to conduct a hazardous fuel reduction project on Federal land (including Federal land identified in section 102(d)) that is not conducted using the process authorized by section 104.

(b) NATIONAL FOREST SYSTEM.—Nothing in this title affects, or otherwise biases, the notice, comment, and appeal procedures for projects and activities of the National Forest System contained in part 215 of title 36, Code of Federal Regulations, or the consideration or disposition of any legal action brought with respect to the procedures.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $760,000,000 for each fiscal year to carry out—

(1) activities authorized by this title; and

(2) other hazardous fuel reduction activities of the Secretary, including making grants to States for activities authorized by law.

SA 1829. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION B—RELIEF FOR MILITARY FAMILIES

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This division may be cited as the ''Military Families Tax Relief Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 101. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

''(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

''(iv) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 102. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.

(a) IN GENERAL.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'', and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure.

''(2) LIMITATION.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all of such payments related to such property exceeds the maximum amount described in clause (1) of subsection (c) of such section (as in effect on such date).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting '', or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

(2) The heading for section 7508 is amended by inserting ''**OR CONTINGENCY OPERATION**'' after ''**COMBAT ZONE**''.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 105. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, ancestors, or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 106. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A), as amended by section 102, is amended by inserting ''and paragraph (4)'' after ''subparagraphs (B) and (C)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(d) NO INFERENCE.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2003.

SEC. 107. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking ''or'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 108. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

''(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

''(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

''(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

''(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

''(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

''(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

''(ii) such Executive order refers to this subsection.

''(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

''(A) begins on the later of—

''(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

''(ii) the date of the enactment of this subsection, and

''(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

''(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

''(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

''(6) ERRONEOUS DESIGNATION.—

''(A) IN GENERAL.—If—

''(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

''(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

''(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

''(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

''(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 109. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 110. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF SPACE SHUTTLE COLUMBIA HEROES.

(a) INCOME TAX RELIEF.—

(1) IN GENERAL.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

''(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting '', astronauts,'' after ''Forces''.

(B) Section 6013(f)(2)(B) is amended by inserting '', astronauts,'' after ''Forces''.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 692 is amended by inserting '', **ASTRONAUTS,**'' after ''**FORCES**''.

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting '', astronauts,'' after ''Forces''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

''(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting ''OR ASTRONAUTS'' after ''VICTIMS''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Section 2201(b) (defining qualified decedent) is amended by striking ''and'' at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENTS.—

(A) The heading of section 2201 is amended by inserting '', **DEATHS OF ASTRONAUTS,**'' after ''**FORCES**''.

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting '', deaths of astronauts,'' after ''Forces''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

TITLE II—UNIFORM DEFINITION OF CHILD

SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 is amended to read as follows:

"SEC. 152. DEPENDENT DEFINED.

''(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

''(1) a qualifying child, or

''(2) a qualifying relative.

''(b) EXCEPTIONS.—For purposes of this section—

''(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

''(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

''(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

''(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

''(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

''(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

''(ii) the taxpayer is a citizen or national of the United States.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

''(C) who meets the age requirements of paragraph (3), and

''(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

''(A) a child of the taxpayer or a descendant of such a child, or

''(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

''(3) AGE REQUIREMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

''(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

''(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

''(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

''(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

''(i) a parent of the individual, or

''(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

''(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

''(i) the parent with whom the child resided for the longest period of time during the taxable year, or

''(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

''(d) QUALIFYING RELATIVE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

''(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

''(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

''(A) A child or a descendant of a child.

''(B) A brother, sister, stepbrother, or stepsister.

''(C) The father or mother, or an ancestor of either.

''(D) A stepfather or stepmother.

''(E) A son or daughter of a brother or sister of the taxpayer.

''(F) A brother or sister of the father or mother of the taxpayer.

''(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

''(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

''(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

''(A) no one person contributed over one-half of such support,

''(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

''(C) the taxpayer contributed over 10 percent of such support, and

''(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

''(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

''(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

''(ii) the income arises solely from activities at such workshop which are incident to such medical care.

''(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

''(i) which provides special instruction or training designed to alleviate the disability of the individual, and

''(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

''(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

''(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

''(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

''(e) SPECIAL RULE FOR DIVORCED PARENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

''(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

''(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(ii) who are separated under a written separation agreement, or

''(iii) who live apart at all times during the last 6 months of the calendar year, and

''(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

''(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

''(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

''(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

''(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, or

''(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of subparagraph (B), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

''(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

''(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

''(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

''(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

''(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) CHILD DEFINED.—

''(A) IN GENERAL.—The term 'child' means an individual who is—

''(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

''(ii) an eligible foster child of the taxpayer.

''(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child of such individual by blood.

''(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

''(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

''(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

''(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

''(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

''(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

''(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

''(A) a child of the taxpayer, and

''(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account.

''(6) TREATMENT OF MISSING CHILDREN.—

''(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

''(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

''(i) the deduction under section 151(c),

''(ii) the credit under section 24 (relating to child tax credit),

''(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

''(iv) the earned income credit under section 32.

''(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

''(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

''(7) CROSS REFERENCES.—

''For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).''.

SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

''(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

''(I) is married at the close of the taxpayer's taxable year, and

''(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

''(i) subparagraph (H) of section 152(d)(2), or

''(ii) paragraph (3) of section 152(d).''.

SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) is amended by striking ''In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))'' and inserting ''In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual''.

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

''(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

''(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

''(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

''(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

''(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.''.

SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

''(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.''.

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking ''the first sentence of section 152(b)(3)'' and inserting ''subparagraph (A) of section 152(b)(3)''.

SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

''(3) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

''(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

''(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

''(D) IDENTIFICATION REQUIREMENTS.—

''(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

''(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking ''(3)(E)'' and inserting ''(3)(C)''.

(3) Section 32(m) is amended by striking ''subsections (c)(1)(F)'' and inserting ''subsections (c)(1)(E)''.

SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 is amended to read as follows:

''(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.''.

SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(2) Section 21(e)(5) is amended—

(A) by striking ''paragraph (2) or (4) of'' in subparagraph (A), and

(B) by striking ''within the meaning of section 152(e)(1)'' and inserting ''as defined in section 152(e)(3)(A)''.

(3) Section 21(e)(6)(B) is amended by striking ''section 151(c)(3)'' and inserting ''section 152(f)(1)''.

(4) Section 25B(c)(2)(B) is amended by striking ''151(c)(4)'' and inserting ''152(f)(2)''.

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking ''paragraphs (1) through (8) of section 152(a)'' both places it appears and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(B) Section 51(i)(1)(C) is amended by striking ''152(a)(9)'' and inserting ''152(d)(2)(H)''.

(6) Section 72(t)(2)(D)(i)(III) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(7) Section 72(t)(7)(A)(iii) is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(8) Section 42(i)(3)(D)(ii)(I) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(9) Subsections (b) and (c)(1) of section 105 are amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(10) Section 120(d)(4) is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(11) Section 125(e)(1)(D) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(12) Section 129(c)(2) is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(13) The first sentence of section 132(h)(2)(B) is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(14) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(16) Section 170(g)(3) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(17) Section 213(a) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(18) The second sentence of section 213(d)(11) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(19) Section 220(d)(2)(A) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(20) Section 221(d)(4) is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(21) Section 529(e)(2)(B) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(22) Section 2032A(c)(7)(D) is amended by striking ''section 151(c)(4)'' and inserting ''section 152(f)(2)''.

(23) Section 2057(d)(2)(B) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(24) Section 7701(a)(17) is amended by striking ''152(b)(4), 682,'' and inserting ''682''.

(25) Section 7702B(f)(2)(C)(iii) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(26) Section 7703(b)(1) is amended—

(A) by striking ''151(c)(3)'' and inserting ''152(f)(1)'', and

(B) by striking ''paragraph (2) or (4) of''.

SEC. 208. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 2003.

TITLE III—CHILD TAX CREDIT

SEC. 301. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.

(a) ACCELERATION OF REFUNDABILITY.—

(1) IN GENERAL.—Section 24(d)(1)(B)(i) (relating to portion of credit refundable) is amended by striking ''(10 percent in the case of taxable years beginning before January 1, 2005)''.

(2) ADVANCE PAYMENT.—Subsection (b) of section 6429 (relating to advance payment of portion of increased child credit for 2003) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) section 24(d)(1)(B)(i) applied without regard to the first parenthetical therein.''.

(3) EARNED INCOME INCLUDES COMBAT PAY.—Section 24(d)(1) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.''.

(b) EFFECTIVE DATES.—

(1) SUBSECTIONS (a)(1) AND (a)(3).—The amendments made by subsections (a)(1) and (a)(3) shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (a)(2).—The amendments made by subsection (a)(2) shall take effect as if included in the amendments made by section 101(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SEC. 302. REDUCTION IN MARRIAGE PENALTY IN CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(b)(2) (defining threshold amount) is amended—

(1) by inserting ''($115,000 for taxable years beginning in 2008 or 2009, and $150,000 for taxable years beginning in 2010)'' after ''$110,000'', and

(2) by striking ''$55,000'' in subparagraph (C) and inserting ''½ of the amount in effect under subparagraph (A)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 303. APPLICATION OF EGTRRA SUNSET TO THIS SECTION.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE IV—OTHER PROVISIONS

SEC. 401. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category	Average fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7528. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 402. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 403. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2003, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument

and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 5, 2003.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 5, 2003.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 5, 2003, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 404. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''March 31, 2010''.

SA 1830. Mr. BINGAMAN (for himself, Mr. LUGAR, Mr. LIEBERMAN, Mr. BAYH, Mrs. CLINTON, Mr. DURBIN, Ms. LANDRIEU, Mrs. LINCOLN, Mr. SMITH, Mr. REID, Mr. CORZINE, Mr. CONRAD, Mr. BYRD, Mr. LEAHY, and Mr. JEFFORDS) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) FINDINGS.—Congress makes the following findings:

(1) According to President George W. Bush, Operation Iraqi Freedom was ''fought for the cause of liberty, and for the peace of the world . . .'' and ''to free a nation by breaking a dangerous and aggressive regime''.

(2) The military victory in Iraq has been characterized by President George W. Bush as one of the ''swiftest advances in heavy arms in history''.

(3) There are more than 130,000 Soldiers, Sailors, Airmen, and Marines of the United States serving in the Iraqi Theater of Operations, far from family and friends, and for an unknown duration.

(4) Since the beginning of Operation Iraqi Freedom, almost 300 members of the Armed Forces of the United States have died in Iraq and nearly 1,500 have been wounded in action.

(5) Congress has authorized and Presidents have issued specific decorations recognizing the sacrifice and service of the members of the Armed Forces of the United States in the Korean War, the Vietnam conflict, and the liberation of Kuwait.

(6) Current Department of Defense guidance authorizes the award of only one expeditionary medal for overseas duty in Afghanistan, the Philippines, and Iraq.

(7) The conflict in Iraq is significant enough in scope and sacrifice to warrant a specific military decoration for the liberation of Iraq.

(b) AUTHORIZATION OF AWARD OF CAMPAIGN MEDAL.—The Secretary concerned may award a campaign medal of appropriate design, with ribbons and appurtenances, to any person who serves in any capacity with the Armed Forces in the Southwest Asia region in connection with Operation Iraqi Freedom.

(c) NAME OF MEDAL.—The campaign medal authorized by subsection (b) shall be known as the ''Iraqi Liberation Medal''.

(d) PROHIBITION ON CONCURRENT AWARD OF GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL.—A person who is awarded the campaign medal authorized by subsection (b) for service described in that subsection may not also be awarded the Global War on Terrorism Expeditionary Medal for that service.

(e) OTHER LIMITATIONS.—The award of the campaign medal authorized by subsection (b) shall be subject to such limitations as the President may prescribe.

(f) REGULATIONS.—(1) Each Secretary concerned shall prescribe regulations on the award of the campaign medal authorized by subsection (b).

(2) The regulations prescribed under paragraph (1) shall not go into effect until approved by the Secretary of Defense.

(3) The Secretary of Defense shall ensure that the regulations prescribed under paragraph (1) are uniform, so far as practicable.

(g) SECRETARY CONCERNED DEFINED.—In this section, the term ''Secretary concerned'' means the following:

(1) The Secretary of the Army with respect to matters concerning members of the Army.

(2) The Secretary of the Navy with respect to matters concerning members of the Navy, Marine Corps, and Coast Guard when it is operating as a service in the Navy.

(3) The Secretary of the Air Force with respect to matters concerning members of the Air Force.

(4) The Secretary of Homeland Security with respect to matters concerning members of the Coast Guard when it is not operating as a service in the Navy.

SA 1831. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. REVENUE PROVISIONS.

(a) REVERSAL OF ACCELERATION OF REDUCTION IN HIGHEST INCOME TAX RATE.—

(1) IN GENERAL.—The table contained in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended to read as follows:

''In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003	25.0%	28.0%	33.0%	35.0%
2004 and 2005	25.0%	28.0%	33.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2003.

(3) APPLICATION OF EGTRRA SUNSET TO THIS SUBSECTION.—The amendment made by this subsection shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

(b) TEMPORARY SUSPENSION OF REDUCTION IN CAPITAL GAINS RATES FOR INDIVIDUALS.—

(1) IN GENERAL.—Subsection (d) of section 301 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended to read as follows:

''(d) EFFECTIVE DATES.—

''(1) IN GENERAL.—Except as otherwise provided by this subsection, the amendments made by this section shall apply to taxable years—

''(A) ending on or after May 6, 2003, and beginning before January 1, 2004, and

''(B) beginning after December 31, 2006.

''(2) WITHHOLDING.—The amendment made by subsection (a)(2)(C) shall apply to amounts paid after the date of the enactment of this Act, but only with respect to taxable years described in paragraph (1).

''(3) SMALL BUSINESS STOCK.—The amendments made by subsection (b)(3) shall apply to dispositions—

''(A) on or after May 6, 2003, and before January 1, 2004, and

''(B) after December 31, 2006.''.

(2) APPLICATION OF JGTRRA SUNSET TO THIS SUBSECTION.—The amendment made by this subsection shall be subject to section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

(c) TEMPORARY SUSPENSION OF TAXATION OF DIVIDENDS AT CAPITAL GAINS RATES.—

(1) IN GENERAL.—Subsection (f) of section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended to read as follows:

''(f) EFFECTIVE DATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years—

''(A) beginning after December 31, 2002, and before January 1, 2004, and

''(B) beginning after December 31, 2006.

''(2) REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—In the case of a regulated investment company or a real estate investment trust, the amendments made by this section shall apply to taxable years described is paragraph (1); except that dividends received by such a company or trust—

''(A) before January 1, 2003, and

''(B) after December 31, 2003, and before January 1, 2007,

shall not be treated as qualified dividend income (as defined in section 1(h)(11)(B) of the Internal Revenue Code of 1986, as added by this Act).''.

(2) APPLICATION OF JGTRRA SUNSET TO THIS SUBSECTION.—The amendment made by this subsection shall be subject to section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 1832. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, line 14, strike ''available,'' and insert ''available in both English and Arabic,''.

SA 1833. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

SEC. . None of the funds made available in this or any other Act for fiscal year 2004 may be used for any defense or reconstruction activities in Iraq or Aghanistan coordinated by any officer of the United States Government whose office is not subject to appointment by the President by and with the advice and consent of the Senate.

SA 1834. Mr. REED (for himself, Mr. HAGEL, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) In addition to the strengths authorized by law for personnel of the Army as of September 30, 2004, pursuant to paragraphs (1) and (2) of section 115(a) of title 10,

United States Code, the Army is hereby authorized an additional strength of 10,000 personnel as of such date, which the Secretary of the Army may allocate as the Secretary determines appropriate among the personnel strengths required by such section to be authorized annually under subparagraphs (A) and (B) of paragraph (1) of such section and paragraph (2) of such section.

(b) The additional personnel authorized under subsection (a) shall be trained, incorporated into an appropriate force structure, and used to perform constabulary duty in such specialties as military police, light infantry, civil affairs, and special forces, and in any other military occupational specialty that is appropriate for constabulary duty.

(c) Of the amount appropriated under chapter 1 of this title for the Iraq Freedom Fund, $409,000,000 shall be available for necessary expenses for the additional personnel authorized under subsection (a).

SA 1835. Mr. REID (for himself and Mrs. LINCOLN) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the end of title I, add the following:

SEC. 316. (a) RESTORATION OF FULL RETIRED PAY BENEFITS.—Section 1414 of title 10, United States Code, is amended to read as follows:

"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

''(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

''(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

''(d) DEFINITIONS.—In this section:

''(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

''(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.''.

(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.—Sections 1413 and 1413a of such title are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

''1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.''.

(d) EFFECTIVE DATE; PROHIBITION ON RETROACTIVE BENEFITS.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the first month that begins after the date of the enactment of this Act.

(2) RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date under paragraph (1).

SA 1836. Mr. REID proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 22, between lines 12 and 13, insert the following new section:

SEC. 316. (a) Congress makes the following findings:

(1) During Operation Desert Shield and Operation Desert Storm (in this section, collectively referred to as the ''First Gulf War''), the regime of Saddam Hussein committed grave human rights abuses and acts of terrorism against the people of Iraq and citizens of the United States.

(2) United States citizens who were taken prisoner by the regime of Saddam Hussein during the First Gulf War were brutally tortured and forced to endure severe physical trauma and emotional abuse.

(3) The regime of Saddam Hussein used civilian citizens of the United States who were working in the Persian Gulf region before and during the First Gulf War as so-called human shields, threatening the personal safety and emotional well-being of such civilians.

(4) Congress has recognized and authorized the right of United States citizens, including prisoners of war, to hold terrorist states, such as Iraq during the regime of Saddam Hussein, liable for injuries caused by such states.

(5) The United States district courts are authorized to adjudicate cases brought by individuals injured by terrorist states.

(b) It is the sense of Congress that—

(1) notwithstanding section 1503 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 579) and any other provision of law, a citizen of the United States who was a prisoner of war or who was used by the regime of Saddam Hussein and by Iraq as a so-called human shield during the First Gulf War should have the opportunity to have any claim for damages caused by the regime of Saddam Hussein and by Iraq incurred by such citizen fully adjudicated in the appropriate United States district court;

(2) any judgment for such damages awarded to such citizen, or the family of such citizen, should be fully enforced; and

(3) the Attorney General should enter into negotiations with each such citizen, or the family of each such citizen, to develop a fair and reasonable method of providing compensation for the damages each such citizen incurred, including using assets of the regime of Saddam Hussein held by the Government of the United States or any other appropriate sources to provide such compensation.

SA 1837. Mr. DURBIN (for himself, Ms. MIKULSKI, and Mr. CORZINE) proposed an amendment the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) SHORT TITLE.—This section may be cited as the ''Reservists Pay Security Act of 2003''.

(b) NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.—

(1) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of the service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to

ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) In this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(3) EFFECTIVE PERIOD.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this section and ending September 30, 2004.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, October 15, 2003, at 10 a.m. in Room 485 of the Russell Senate Office building to conduct a hearing on S. 550, the American Indian Probate Reform Act of 2003.

Those wishing additional information may contact the Indian Affairs committee at 224–2251.

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, October 15, at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 943, a bill to authorize the Secretary of the Interior to enter into one or more contracts with the city of Cheyenne, WY, for the storage of water in the Kendrick Project; S. 1027 and H.R. 2040, bills to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska; S. 1058, a bill to provide a cost-sharing requirement for the construction of the Arkansas Valley Conduit in the State of Colorado; S. 1071, a bill to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in the State of New Mexico, and for other purposes; S. 1307, a bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes; S. 1308, a bill to authorize the Secretary of the Interior to pursue and complete actions related to the implementation of a U.S. District of a U.S. District Court consent Decree; S. 1355, a bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes; S. 1577, a bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming; H.R. 1284, a bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project; and S. Res. 183, a resolution commemorating 50 years of adjudication under the McCarran Amendment of rights to the use of water. Contact: Shelly Randel 202–224–7933, Kellie Donnely, 202–224–9360, Erik Webb 202–224–4756 or Meghan Beal at 202–224–7556.

Because of the limited time available for the hearings, 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 Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, October 16, 2003 at 10 a.m. in Room 485 of the Russell Senate Office building to conduct an Oversight Hearing on the Missouri River Master Manual.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 14, 2003, at 10 a.m., to conduct a hearing on the nominations of the Honorable Roger W. Ferguson, Jr., of Massachusetts, to be Vice Chairman of the Board of Governors of the Federal Reserve System; the Honorable Ben S. Bernanke, of New Jersey, to be a member of the Board of Governors of the Federal Reserve System; and the Honorable Paul S. Atkins, of Virginia, to be a member of the Securities and Exchange Commission.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 14, 2003 at 9:30 a.m. to hold a hearing on the UN Convention on the Law of the Sea (T. Doc. 103–39).

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

SPECIAL COMMITTEE ON AGING

Mr. STEVENS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, October 14, 2003 from 10 a.m. to 12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittees on Terrorism, Technology and Homeland Security be authorized to meet to conduct a hearing on Terrorism: Radical Islamic Influence of Chaplaincy of the U.S. Military and Prisons,'' on Tuesday, September 14, 2003, at 10 a.m. in Room 226 of the Dirksen Senate Office Building.

Witness List

Panel I: Mr. John Pistole, Assistant Director of Counterterrorism, Federal Bureau of Investigation, Washington, DC.

The Honorable Charles Abell, Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, Washington, DC.

The Honorable Harley Lappin, Director, Federal Bureau of Prisons, Washington, DC.

Panel II: Dr. Michael Waller, Annenberg Professor of International Communication, The Institute of World Politics, Washington, DC.

Mr. Paul Rogers, President, American Correctional Chaplains Association, Waupun, WI.

Mr. A.J. Sabree, Treasurer, American Correctional Chaplains Association, Atlanta, GA.

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

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Nora Carroll and Elizabeth Prescott, fellows in my HELP Committee, be granted floor privileges.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Dale Jones during the pendency of S. 1689.

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

UNANIMOUS CONSENT REQUEST—H.R. 7

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7, the Charitable Choice bill.

Mr. REID. Objection.

Mr. MCCONNELL. I know my friend from Nevada is going to object, but let me finish.

Mr. REID. I am sorry. I will let him finish.

Mr. MCCONNELL. I further ask unanimous consent that all after the enacting clause be stricken; that the Snowe amendment and the Grassley-Baucus amendment which are at desk be agreed to en bloc; that the substitute amendment, which is the text of S. 476, the Senate-passed version of the Charitable Choice bill, as amended by the Snowe and Grassley-Baucus amendments, be agreed to; that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table; further, that the Senate insist on its amendments and request a conference with the House; and, lastly, that the Chair be authorized to appoint conferees with a ratio of 3 to 2, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. REID. On behalf of Senator HARKIN, I object.

The PRESIDING OFFICER. Objection is heard.

COMMENDING THE INSPECTORS GENERAL

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S.J. Res. 18 and the Senate proceed to its immediate consideration.

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

The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 18) commending the Inspectors General for their efforts to prevent and detect waste, fraud and abuse, and mismanagement, and to promote economy, efficiency, and effectiveness in the Federal Government during the past 25 years.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the joint resolution be read a third time and passed, the motion to reconsider be laid upon the table, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the joint resolution be printed in the RECORD.

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

The joint resolution (S.J. Res. 18) was read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 18

Whereas the Inspector General Act of 1978 (5 U.S.C. App.) was signed into law on October 12, 1978, with overwhelming bipartisan support;

Whereas Inspectors General now exist in the 29 largest executive branch agencies and in 28 other designated Federal entities;

Whereas Inspectors General work to serve the American taxpayer by promoting economy, efficiency, effectiveness, and integrity in the administration of the programs and operations of the Federal Government;

Whereas Inspectors General conduct audits and investigations to both prevent and detect waste, fraud, abuse, and mismanagement in the programs and operations of the Federal Government;

Whereas Inspectors General make Congress and agency heads aware, through semiannual reports and other communications, of problems and deficiencies in the administration of programs and operations of the Federal Government;

Whereas Congress and agency heads utilize the recommendations of Inspectors General in the development and implementation of policies that promote economy and efficiency in the administration of, or prevent and detect waste, fraud, abuse, and mismanagement in, the programs and operations of the Federal Government;

Whereas Federal employees and other dedicated citizens report information to Inspectors General regarding the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health and safety;

Whereas Inspector General audits and investigations result in annual recommendations for more effective spending of billions of taxpayer dollars, thousands of successful criminal prosecutions, hundreds of millions of dollars returned to the United States Treasury through investigative recoveries, and the suspension and debarment of thousands of individuals or entities from doing business with the Government; and

Whereas for 25 years the Inspectors General have worked with Congress to facilitate effective oversight to improve the programs and operations of the Federal Government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) recognizes the many accomplishments of the Inspectors General in preventing and detecting waste, fraud, abuse, and mismanagement in the Federal Government;

(2) commends the Inspectors General and their employees for the dedication and professionalism displayed in the performance of their duties; and

(3) reaffirms the role of Inspectors General in promoting economy, efficiency, and effectiveness in the administration of the programs and operations of the Federal Government.

ORDERS FOR WEDNESDAY, OCTOBER 15, 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, October 15. I further ask unanimous consent that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 60 minutes with the first 30 minutes under the control of the minority leader or his designee, and the second 30 minutes under the control of Senator HUTCHISON or her designee; provided that following morning business the Senate resume consideration of S. 1689, the Iraq-Afghanistan supplemental appropriations bill. I further ask unanimous consent that the Senate recess from 12:30 until 2:15.

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

PROGRAM

Mr. MCCONNELL. Mr. President, for the information of all Senators, on Wednesday, following morning business, the Senate will resume consideration of the Iraq-Afghanistan supplemental appropriations bill. Under a previous order, upon returning to the bill at approximately 10:40 a.m., the Senate will proceed to two back-to-back rollcalls. The first vote will be in relation to Corzine amendment No. 1811 relating to military retirement pay. That vote will be followed by a vote in relation to Reed amendment No. 1834 relating to end strength. The votes in relation to the Corzine and Reed amendments will be the first votes of the day.

As previously announced, the Senate will recess from 12:30 until 2:15 p.m. Following the recess, the Senate will resume consideration of the Iraq-Afghanistan supplement appropriations bill. Amendments will be offered and debated throughout the day tomorrow.

Again, I encourage all Senators who have amendments to this vital measure to come over and visit with the managers and dispose of those amendments. Senators should expect rollcall votes throughout the day and into the evening tomorrow in relation to this bill.

ADJOURNMENT UNTIL 9:30 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 8:08 p.m., adjourned until Wednesday, October 15, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 14, 2003:

REFORM BOARD (AMTRAK)

ROBERT L. CRANDALL, OF TEXAS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE MICHAEL S. DUKAKIS, TERM EXPIRED.

DEPARTMENT OF COMMERCE

MICHAEL D. GALLAGHER, OF WASHINGTON, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION, VICE NANCY VICTORY, RESIGNED.

REFORM BOARD (AMTRAK)

LOUIS S. THOMPSON, OF MARYLAND, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE JOHN ROBERT SMITH, TERM EXPIRED.

DEPARTMENT OF ENERGY

SUSAN JOHNSON GRANT, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF ENERGY, VICE BRUCE MARSHALL CARNESS, RESIGNED.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

GARY LEE VISSCHER, OF MARYLAND, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS, VICE ISADORE ROSENTHAL, TERM EXPIRING.

DEPARTMENT OF STATE

JON R. PURNELL, OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UZBEKISTAN.

THOMAS THOMAS RILEY, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

MARGARET SCOBEY, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

MARGARET DEBARDELEBEN TUTWILER, OF ALABAMA, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY, VICE CHARLOTTE L. BEERS, RESIGNED.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

STUART ISHIMARU, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2007, VICE PAUL M. IGASAKI, TERM EXPIRED.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

DREW R. MCCOY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF SIX YEARS, VICE LANCE BANNING.

THE JUDICIARY

VIRGINIA E. HOPKINS, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA, VICE EDWIN L. NELSON, DECEASED.

RICARDO S. MARTINEZ, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON, VICE AN ADDITIONAL POSITION IN ACCORDANCE WITH 28 USC 133(B)(I).

DEPARTMENT OF VETERANS AFFAIRS

ROBERT N. MCFARLAND, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (INFORMATION AND TECHNOLOGY), VICE JOHN A. GAUSS, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID W. BARNO, 0000

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. CHARLES P. BALDWIN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MICHAEL P. VINLOVE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DONALD A. BLACK, 0000
CLARETHA F. FERGUSON, 0000
SHIRLEY A. GERRIOR, 0000
GARY W. GRAHAM, 0000
GREGG K. HAMMOND, 0000
DIANNE L. HAWKINS, 0000
KAREN F. KLINKNER, 0000
DEBRA S. LONG, 0000