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Senate

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

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Dr. Phillip W. McClendon, Calvary Baptist Church, Joplin, MO.

PRAYER

The guest Chaplain offered the following prayer:

Shall we pray.

Our Father, we praise You for Your love that embraces us and gives us security, Your joy that uplifts us and gives us resiliency, Your peace that floods our hearts and gives us calmness, Your Spirit that fills us and gives us strength and fortitude.

Guide us, Lord, so we can maximize the hours of this week. Help us to think clearly without confusion, to speak without resentment, to debate without division, and to decide courageously without strife. May our speech honor You and deal with issues and not personalities. Grant the Senators Your grace to work this week as the honorable men and women who love You and count it a high privilege to serve as leaders of our beloved Nation. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 22, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning, following leader time, the Senate will be in a period of morning business for up to 60 minutes. The morning business period will be divided. The Republican side will control the first 30 minutes and the Democrat side will control the final 30 minutes.

After morning business, the Senate will begin 60 minutes of debate on the motion to proceed to the asbestos bill. When the 1 hour of debate concludes, the Senate will conduct a rollcall vote on invoking cloture on the motion to proceed to the asbestos bill. We have heard from a number of Senators on this bill in the last couple of days. As the debate has progressed, there have been a number of ongoing discussions which involved our options for moving forward on this important piece of legislation.

At this point, it is difficult to say exactly how the continued negotiations are going to be carried out, but we are going forward with the cloture vote today, and we will continue with discussions and negotiations at the leadership level. If we are unable to invoke cloture and actually begin the asbestos bill, we will have an agreement to consider the victims' rights bill that was introduced yesterday by Senators KYL, FEINSTEIN, and others. That order provides for up to 2 hours of debate prior to a vote on passage of the bill.

I thank all of the Members who have assisted in bringing that to conclusion. Both the assistant Democratic leader and I mentioned last night that they have done yeomen's work in bringing this legislation to the point it is.

It is bipartisan. I know Senator KYL has been very engaged in this debate. And only through his efforts, working together with the efforts of Senator FEINSTEIN and others, will we be able to finish that bill today.

I will be talking to the Democratic leadership about the schedule for the remaining part of this week and next week as the course of the day goes on.

I know my distinguished colleague from Missouri is here. I would be happy for him to make a statement with regard to our visiting Chaplain today.

So people know, I have about a 4- or 5-minute statement to make before going to morning business.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

GUEST CHAPLAIN PHILLIP MCCLENDON

Mr. BOND. Mr. President, I thank the majority leader and the distinguished minority whip.

I join with my colleagues today in welcoming a good friend to the Senate as guest Chaplain, Dr. Phillip McClendon of Joplin, MO. He is the senior pastor of Calvary Baptist Church where for the past 20 years he has served as a dynamic church and spiritual leader for southwest Missouri, ministering to all with whom he comes in contact, including hospital patients here and on his extensive missions

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abroad. While we claim him for Missouri, his pastoring and his services extend to many people beyond the borders of our State. We are extremely delighted that he has been able to bring this body together and start us, we hope, on the right track today.

Dr. McClendon was educated in Georgia, Kentucky, and Missouri, and has been pastor for lengthy periods of service in New Mexico and Texas before being elevated to the current status in Missouri.

In addition to his church responsibilities, Dr. McClendon is a widely respected civic leader. He has served as trustee for the Ozark Mental Health Center, on the board of directors for the Ronald McDonald House of the four States, and as a member of the Advisory Council for the Community Blood Center of the Ozarks.

Dr. McClendon's works can be read through his published works. He has been on numerous television broadcasts throughout the region and has developed quite a wide following.

The interesting thing about Dr. McClendon is his ability to balance his calling, his family duties, all the while contributing so much to the Greater Joplin community. It underscores his dedication and active commitment to doing God's work for the betterment of humanity and all of our spiritual lives.

Dr. McClendon and his wife Jackie have three children, Scott, Gwen, and Crystal. Today, we are very pleased to be able to welcome an enthusiastic group of friends and admirers as he opened the Senate for business. We are truly delighted to welcome him and his group.

Thanks, Dr. McClendon, to you and your family, for your service.

I appreciate the opportunity to make these remarks. I thank the Chair for giving me this opportunity.

The ACTING PRESIDENT pro tempore. The majority leader.

EARTH DAY

Mr. FRIST. Mr. President, very briefly, I wish to comment on an event we are celebrating throughout the United States today and indeed throughout the world today. That is the fact that today is the 34th anniversary of Earth Day, an event that gives people the opportunity to celebrate the environmental accomplishments that have been made over the past three decades and, yes, to look ahead to see what progress can and should be made.

What has been so apparent to me as I travel back to Tennessee and talk to people across Tennessee is the opportunity that this day and this focus gives communities to discuss, to participate, and clean up of projects—to participate in conservation projects all across Tennessee. And, thus, it is happening all across the country.

Thousands of volunteers today, right now as we speak, are participating in an event—and the next few weeks will continue that discussion and that activity—all of which will serve to raise environmental awareness and improve the cities and towns and the environment in which we live.

This year we have much to celebrate. The quality of our environment has dramatically improved over the past 30 years. Federal, State, and local efforts have enhanced our air and enhanced our water quality by reducing pollution. Major steps have been taken to clean up contaminated sites over the last 30 years and to protect our natural resources.

Since 1970—a little over 30 years ago—aggregate emissions of harmful pollutants have decreased by 25 percent. And that has happened—this decreasing of the pollutants by 25 percent—at the same time our gross domestic product has increased 161 percent. Energy consumption has increased 42 percent.

Tennessee is home to some of our Nation's most diverse natural areas. We have the Great Smoky Mountains in east Tennessee, a wonderful environment, a wonderful region, a wonderful space that I personally enjoy. I hike through it every year with my family—my wife Karyn and my three boys.

It is our Nation's most visited National Park, the great Smoky Mountains National Park. It is home to more than 100,000 different, distinct species, hundreds of which are new to science. The park itself is one of the most biologically diverse, indeed, in the world. Tennesseans know how critically important it is to protect and to conserve our limited resource.

In recognition of Earth Day, Tennesseans are volunteering all across the State, in National Parks, community cleanup projects, in wildlife refuges. A lot of the projects I mentioned are underway as I speak. In Nashville, thousands turned out to Centennial Park to learn about the Cumberland River and the region's water resources. Tennesseans are taking part in cleanup activities in the Reelfoot National Wildlife Refuge which is in northwest Tennessee. In east Tennessee and Knoxville there is the Fifth Annual Earthfest which is themed ''What's In Your Water,'' to highlight water resources and quality issues in east Tennessee.

Federal agencies, in cooperation with national and grassroots organizations, are working together to educate Americans about how they can participate in cleaning up their environment on a daily basis, what they can do as individuals, as communities, initiatives such as the ENERGY STAR Program, statewide recycling programs, and under the Department of Agriculture, the Natural Resources Conservation Service is teaching people how to be good stewards of our planet.

Earth Day is, indeed, an opportunity to reflect our accomplishments today and think about how we can do more to improve the environment.

The administration has proposed several new initiatives that will reduce air pollution, which will support conservation and environmental stewardship programs and address our Nation's limited water resources issues. We also are working with international partners to address global climate change and assist developing countries with environmental challenges such as deforestation and illegal logging.

After more than 30 years, Earth Day has become an integral part of our Nation's environmental consciousness. No matter how you choose to celebrate Earth Day, you will be taking part in an international effort to preserve our natural resources and build a healthier tomorrow.

I yield the floor.

The ACTING PRESIDENT pro tempore. The assistant Democratic leader.

ORDER OF PROCEDURE

Mr. REID. This is a unanimous consent request. I will not take time from the distinguished Senator from Colorado. Under the half hour that has been allotted to the Democrats in our morning business, we would dispense that by giving 10 minutes to Senator KOHL, 10 minutes to Senator LEAHY, and 10 minutes to Senator Lautenburg, not necessarily in that order; whoever is there, 10 minutes each.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there is a period for the transaction of morning business for 60 minutes, with the first 30 minutes under the time of the majority leader or his designee and the final 30 minutes under the time of the Democratic leader or his designee.

The Senator from Colorado.

ASBESTOS

Mr. ALLARD. Mr. President, the Senate will decide shortly what path to take on the pending asbestos liability legislation, otherwise known as the Fairness In Asbestos Injury Resolution Act, more frequently referred to simply as the FAIR Act. This bill has inspired very strong sentiments from many Americans. Like my colleagues on both sides of the aisle, I am deeply sympathetic to those who have suffered severe medical consequences from exposure to asbestos.

I am somewhat less sympathetic to those who may seek compensation without demonstrating a medical impact on their lives. While the number of mesothelioma claims has remained relatively steady at about 2,000 claims

a year for the last 10 years, over 100,000 cases were filed in 2003.

According to the RAND Institute for Civil Justice, mesothelioma victims receive only 17 percent of compensation awards, compared to 65 percent for nonmalignant claimants.

On top of that, trial lawyers may charge fees as high as 40 percent plus litigation expenses. The result of less justifiable lawsuits is many real victims are denied compensation for actual injuries.

To date, 67 companies have been bankrupted and more than 60,000 Americans have lost their jobs as a direct result of asbestos liability. Clearly, we have a problem in this country.

I followed the numerous Senate hearings held on this issue and I have met with numerous Coloradans with a variety of perspectives. I met with those who lost loved ones to mesothelioma, those who have lost jobs due to asbestos litigation, and those who are curtailing their manufacturing operations in Colorado in anticipation of continued claims.

The complexities of this issue are tremendous. I compliment my colleagues, the chairman of the Judiciary Committee and the majority leader, for their work to date on this issue.

Beyond the FAIR Act, general litigation and litigation reform have been major topics of concern this session in the Senate. Last October, the Senate focused on the Class Action Fairness Act. When a plaintiff's injury is not worth enough to justify a legal suit to recover damages, individuals similarly affected can combine damages for one lawsuit against a common defendant. In recent years, driven largely by a few unscrupulous attorneys, there has been an explosion in class action litigation. Our economy bears an enormous burden due to this explosion of litigation. Unfortunately, much of that burden is carried by consumers. Specific to these suits, these abuses of the system, the consumer is often left out in the rain once there is a settlement. Attorneys can make millions, while the plaintiffs are often left with nothing more than a coupon for a service they were denied in the first place.

Like so many things designed to protect consumers and ensure fair and just restitution, the tool of class action has been manipulated. Far too often, that manipulation has yielded tremendous wealth for attorneys driving these actions and little or nothing for the consumers initially harmed.

The Center for Legal Policy recently reported from 1997 to 2000 United States firms saw a 300-percent increase in Federal class actions and a 1,000-percent spike in State class actions. The end result, as we will see, is an increase in litigation, thus an increase in the cost of doing business and higher costs passed along to the consumer. There are, in fact, a plethora of abuses that have contributed to the generation of this legislation in the Senate.

Nothing in the class action bill denied a consumer a right to make valid claims. This point cannot be stressed enough. Our legal system has functioned under this guiding principle for generations. We will do nothing in this Chamber to challenge that principle.

There are those in this body who see this bill differently. There are those in this body who can look at the class action brought against Blockbuster Video where attorneys will collect a little less than $10 million and class members will get coupons toward future video rentals and say this is justice. This case, and cases like it, are representative of the systematic denial of valid claims by class members and it is incumbent upon us to rectify this situation.

One such tool at our disposal is increased oversight of such settlements. The Founding Fathers, in their infinite wisdom, envisioned problems like this. The Constitution was drafted explicitly to provide for Federal jurisdiction over all lawsuits between the citizens of different States. These cases involving parties of diverse citizenship have evolved into what we see today as national types of litigation or big-dollar suits against large companies engaged in interstate commerce. Over time, Congress has more narrowly defined constitutional diversity and created a requirement that all plaintiffs be diverse from all defendants. The result today is venue shopping, attorneys seeking favorable State courts through which to pursue an action that is national in scope. The Founders knew such nebulous venue requirements could lead to local biases in cases of broad significance and we have, unfortunately, arrived at that point. The Constitution provides for Federal jurisdiction over citizens of different States so local bias will never become an issue. National, multimillion-dollar suits should not be barred from Federal courts. The egregious practice of venue shopping flies in the face of the Founders' intent.

Class actions are a valuable part of the legal system. Recent abuses and a shift in the benefits of an action from class members and toward attorneys should not signal the end of access to appropriate legal recourse. The system as it exists today is untenable.

Medical liability has become another increasingly important matter on a national scale. In February, the Senate debated the Patient Crisis/Access to Care Act. Skyrocketing medical liability premiums have translated directly to physicians limiting services, retiring early, or moving out of the State—one State to another—to escape escalating costs of liability insurance.

This cost is deeply felt and extends well beyond the physician-patient relationship. Emergency departments are losing staff and scaling back critical services, even trauma units. OB/GYNs and family doctors have stopped delivering babies, and all too often high-risk procedures—for example, neurosurgery—are postponed because surgeons cannot find or afford insurance.

The result is a serious threat to patient access to care. Twenty-six percent of health care institutions have cut back services or eliminated patient care units. Seventy-eight percent of Americans fear that skyrocketing medical liability costs will limit access to care even further.

If we look at the root of this problem, we see that median medical liability awards have increased 43 percent in 1 year from $700,000 in 1999 to more than $1 million in the year 2000. In 2001, malpractice insurers paid $1.53 in claims and costs for every $1 received in revenue. This system is not sustainable and will not serve those Americans in need of better health care.

We are suit happy. At some point Americans stopped bargaining and negotiating in good faith. At some point we became less concerned with justice and more focused on assigning blame. More than assigning blame, we now assign dollar amounts to virtually every major, minor, and perceived slight. We live in a country where family disputes are settled in court.

Mr. President, at the risk of sounding too folksy, people where I come from, where I was raised, simply do not see it this way. If this body does nothing else today, we should commit to an overall effort to recast our approach to the judicial system—a system that has grown obese and focused on greed rather than justice.

These are just a few examples of the cost of continued and increased litigation and the importance of reform.

The FAIR Act, which faces a cloture vote later today, marks another attempt to deal with a pressing national issue. It is clear, however, that the FAIR Act will not be permitted to come to an up-or-down vote in the Senate.

A variety of important bills have been effectively defeated before they have ever come to an up-or-down vote in this body. Parliamentary tricks and filibuster by the Democrats have jammed numerous issues.

The following examples should clearly illustrate this obstruction.

The JOBS bill would both repeal a European tariff on nearly 100 American-made products and cut taxes for manufacturers in the United States. Although the JOBS bill passed the Finance Committee 19 to 2 and enjoys broad, bipartisan support, Democrats voted to block a vote on the measure in March.

The medical liability legislation I discussed—patients across America are denied critical health care, including emergency and obstetric care, because doctors and hospitals are closing their doors from skyrocketing liability costs. Opponents blocked a comprehensive, bipartisan bill in July of 2003. In February of 2004, Senate Democrats again blocked an effort to protect women's access to obstetric and gynecological care. That was S. 2207.

The energy bill—a comprehensive energy bill would deliver nearly 1 million

American jobs, increase renewable and alternative sources of energy, and reduce America's dependence on foreign oil. This bill has been blocked in the Senate for 3 years, including a provision to open ANWR and dramatically reduce America's dependence on foreign oil and create hundreds of thousands of more American jobs.

The Workforce Investment Act is projected to help more than 940,000 dislocated workers get the training they need to get good jobs. It was passed by both the House and the Senate—I might add unanimously in the Senate. Senate Democrats now refuse to appoint conferees so that the bill can become law.

Judges—the unprecedented, unconstitutional challenge to the Senate's advise-and-consent role continues. A minority of Democrats have prevented six highly qualified Federal appeals court nominees from receiving a fair, up-or-down confirmation vote and are threatening to use partisan filibusters to prevent confirmation of additional judges. If given an up-or-down vote, all these nominees would be serving on the bench today.

The class action legislation I mentioned would create a consumer bill of rights to ensure that victims are not denied fair compensation while their trial lawyers escape with the lion's share of court awards. On October 22, 2003, Senate Republicans and nine Democrats came one vote short of overcoming the Democrat leadership's parliamentary obstruction.

Faith-based/charities legislation passed the Senate on April 9, 2003, with overwhelming bipartisan support, 95 to 5, and similar legislation resoundingly passed the House on September 17, but the Democrat leadership is blocking a conference committee to resolve House-Senate differences and even allow a final vote. The CARE Act will spur more charitable giving and assist faith-based organizations and community charities.

Welfare reform—on April 1, 2004, Senate Democrats voted to block a measure to reauthorize the landmark 1996 welfare reforms. H.R. 4 would build on the successes of the 1996 reforms to strengthen work requirements and promote healthy families, as well as provide an additional $6 billion in childcare funding.

It is time to move forward with an agenda in the Senate. I think it is time for us to put aside the partisan politics we are experiencing in the Senate today and move forward with, I think, very important legislation. I talked about some of that: liability reform, that affects both class actions as well as medical care; trying to ensure that we have voluntarism. Welfare reform has been extremely successful. Yet we find that obstructed in the Senate.

I hope, even though this is a Presidential year, and many of us are not surprised by some of the Presidential politics, that the Democrats will seek to cooperate more with the Republican majority so we can move forward with the agenda in the Senate.

There is a terrible cost being exacted for our delinquency on these matters. Every day the outlook for health care, the burden of an un-reformed tort system run amuck, and opportunities for America's small businesses grows increasingly difficult. I pledge to work with my colleagues on each of these issues, some of which I support and others which I may not, but I will work with colleagues to see that each bill receives a fair up and down vote. Our constituents deserve better than to watch while the legislative process is held hostage for the political or ideological desires of a few members of this body.

Mr. President, I thank the Chair and yield back my time.

The ACTING PRESIDENT pro tempore. Who yields time?

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

OBSTRUCTION TACTICS

Mr. SANTORUM. Mr. President, I rise to express my concern about what seems to be an all-too-apparent pattern in the Senate when we earnestly try to work together to bring up issues that are important to the future of this country, such as the jobs in manufacturing bill, the FSC bill, where we have been trying to avoid more tariffs, which now have been levied against many manufacturers by the European Union, that are increasing month by month. We are trying to get a bill passed to help our manufacturers, to help our manufacturing economy, and that is being blocked on the floor of the Senate.

Medical liability: We have had three votes just to bring the bill up to discuss it, to discuss an issue that is devastating my State. I have had numerous town meetings across the Commonwealth of Pennsylvania. Doctors, nurses, health professionals, hospital administrators, patients, and patient groups are coming and saying: We have to do something to deal with the skyrocketing cost of health insurance as a result of medical liability insurance costs.

We have lost 1,100 doctors in Pennsylvania alone. We have great medical schools, but we are almost last in the country now in physicians under the age of 35. Yet we produce—next to New York and California, maybe Texas—more young physicians than any other State in the country. It is a huge problem; yet we can't even debate it in the Senate because we are being blocked.

Energy is another one. It came very close. We worked out a bipartisan bill. It had bipartisan support. We couldn't get an energy bill passed because of a filibuster in the Senate. The same is true with workforce investment. We passed it. It is being blocked from going to conference. That is a new obstruction tactic which is a sort of bait and switch. It is the idea that, yes, we will give you this, we will pass it, and then after everybody believes we passed it and we have done our job, we are not allowed to go to conference to work out the differences between the two bodies. So we can't get a bill done.

We have talked about judges over and over and spent many late nights here talking about the obstructionism. Again, it is a new tactic, a new level of obstruction heretofore never seen in the Senate—requiring judges to get 60 votes for confirmation. So we have this new threshold for judges. We have a new threshold for passing legislation which is not allowing us to go to conference and requiring a 60-vote majority to go to conference, not to pass a bill, not to bring a bill up. It is obstruction on top of obstruction.

We had a bipartisan welfare reform bill we were working on. We were working to do more for daycare—many on the other side of the aisle wanted to do that—$7 billion more for daycare, a huge increase in daycare funding with a very small increase in work requirement and in participation standards. It was blocked on the floor of the Senate.

On class action we came close—one vote. Again, we came close; not 51, not passage, it came close to the 60 votes that are now required on every single measure that comes before the Senate. We came one vote short, and we still have no assurance of the ability to bring the bill up and to come to conclusion.

Faith-based charities is another example of a bill that passed with 90-plus votes. We can't go to conference. This was a bill that was bipartisan in nature. Senator LIEBERMAN and I were sponsors of the legislation. There was no controversy surrounding it. Anything that was controversial was excised from the bill. Still we can't get the bill to conference to be able to get something that will infuse billions of dollars into charitable organizations across the country.

Now we add to it asbestos care and jobs. We have this bill. Again, what is this about? What is this vote about? This is about discussing the bill. Is anyone in this Chamber saying there isn't a problem? There was a settlement that was just agreed to wherein the average person in Pennsylvania received $12,000, and the average claimant in Mississippi received $250,000 per person. Is this is a fair system, where people in Mississippi, because of a ridiculous court situation that goes on and the fraudulent court system in some counties in Mississippi, where lawyers have bought off the judiciary, that that is somehow or another a fair

system, that claimants in those communities should get more than someone who is similarly situated in another State?

This is a situation that is crying out for Federal intervention. If we had this kind of discrimination going on in any other area, other than the fact that trial lawyers are involved, personal injury lawyers are involved, if we had any of this discrimination going on between States, both sides of the aisle would be screaming for a Federal solution. But when you have a situation where 50 percent of the money goes to lawyers and court costs and that money seems to finds its way back, interestingly enough, in the political system, then all of a sudden we don't mind discrimination between States.

We don't mind if some States do very well under this lottery system that has evolved in these asbestos cases. We don't care if people who are sick and dying of mesothelioma get $10,000 in claims, and someone who walked through a construction site where there was asbestos, who is not sick, never will be sick, gets hundreds of thousands of dollars. We don't care, just as long as our buddies, the personal injury lawyers, get their cut. That is what is going on here.

This is outrageous, with the severe problem we have in asbestos litigation, as severe a problem and as inequitable a situation as we have, as destructive to the economy as this is. Twenty-five percent of the companies that have gone bankrupt have gone bankrupt in Pennsylvania; 25 percent of those companies are Pennsylvania based.

We have a company Senator HATCH talked about the other day, Crown Cork & Seal. Crown Cork & Seal makes bottle caps. If you opened up a Coke bottle, you used to have cork on the inside of the bottle cap. Now they have plastic. But they make plastic containers and bottle caps, all those things. They bought a bottling company in 1963, a cork company, as part of their growth. That company also had an insulation business. They owned the insulation business for 90 days—they never operated it—90 days in 1963. They spent $7 million on the acquisition. They have already paid out $400 million in claims on a business they never operated. What has that done? It has crippled that business. It is still surviving because it is a great company and it is still a world leader, but $400 million out of a bottom line of a company that never made the product, that owned it for 90 days and sold it as soon as they could find a buyer. They never operated the business and they still have tens of thousands of claims outstanding. This is wrong. If you want to talk about hurting manufacturers, I would like someone on the other side to stand up and say how this is fair to manufacturing.

By the way, most of these claims and most of the money being paid out is going to lawyers, not people who are sick. Most of the claims are going to people who are not sick, not people who are sick, because most of the claims are filed by people who are not sick. This is an outrage, and we can't even discuss it here in the Senate. We can't even bring the bill up and have an amendment. We can't let the Senate work its will. I hear so much the complaint, if you just let the Senate work its will, bring these bills up. We can have a discussion. We have our message amendments that we want to do. But let's bring the bill up.

Well, here we are. Let's bring the bill up. When it comes to our friends, the personal injury lawyers, we can't bring those bills up. We will bring up other bills but not when it comes to our buddies, the personal injury lawyers. Because it is a campaign season, we have campaigns to fund.

This is an outrage. I don't want to hear any more complaints from the other side of the aisle about how manufacturing is in the doldrums when this particular bill could do more to stimulate capital investment in manufacturing and growth in the manufacturing sector and stop those companies from moving offshore. Why? Because they don't want these claims and the litigation environment—asbestos is probably the poster child for that—that they have to live with.

We have an obligation to those who are sick to set up a fund so people who are sick, have health care expenditures, and are going through difficult times, who are disabled, get the resources they need and deserve as a result of being exposed to asbestos. We have an obligation. I can tell you the insurance companies, the manufacturers, are willing to put up over $100 billion to help people who are sick, and by the way, there is very little money for lawyers. That is the problem here. We are OK with the $100 billion or more for folks who are sick, but what about our friends, the lawyers? What are they going to do? How are they going to feed their families? Is that the real concern here?

The concern in asbestos cases should be the people who are sick, not the lawyers who are making right now the lion's share of the money on this issue. That is what we are trying to get to here.

All we are trying to do is discuss it. The bill that is before us I think puts $114 billion in the trust fund. I would be willing to continue to work on this point and see if we can get that money up higher. I am willing to look at all sorts of aspects of this bill to see if we can find a way to create a system to help people who are sick in this country as a result of exposure to asbestos and stop the bleeding of these people—the bleeding of these people—by personal injury lawyers who care more about their bottom line than helping people who are sick. If they really were concerned about people who are sick, there would not be tens of thousands of cases being filed in America today by people who are not sick because that money is being drained away from people who are sick to people who are not sick and to lawyers who are suing on their behalf.

What is happening in this system is criminal, in my opinion, and for the Senate to say we simply do not want to discuss it is an outrage.

I know the negotiations are continuing among labor, the insurance companies, and manufacturers, and I assume trial lawyers are involved, although probably objecting to everything, but we need to come to a conclusion.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator's time has expired.

Mr. SANTORUM. Madam President, we need to help those people who are sick, and we need to help them now.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

GAYLORD NELSON AND EARTH DAY

Mr. KOHL. Madam President, today I rise to recognize one of our most prominent Wisconsinites, Gaylord Nelson, the founder of Earth Day, the man who fundamentally changed the way American people view the environment.

Before Gaylord Nelson came along, pollution and ecology were fringe subjects, a concern of only a few academics. After Gaylord Nelson created Earth Day in 1970, environmental issues exploded into our public debate. In that first year, almost 20 million people participated in Earth Day events—an instant success. By last year, 500 million people in 167 countries took part in Earth Day, spreading the message of environmental stewardship.

Earth Day laid the foundation for landmark environmental legislation. All over the country, Americans heard about the dangers of lead in our water, pesticides in our drinking water, and chemicals in our soil. An informed public brought pressure on Congress and the President to act. The movement that started that first Earth Day led to the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, and Superfund legislation. These are the foundations of environmental law today, and they would not have been possible without the work and the vision of Senator Gaylord Nelson.

That vision is still necessary today as we struggle to complete the work Gaylord Nelson started in 1970. Congress and the administration still must address arsenic in the water, mercury in the air, and the impact of outdated coal-burning powerplants, just to name a few outstanding environmental problems.

Gaylord Nelson's dream is not yet a reality, but it is worth fighting for, as is so much Gaylord Nelson has championed.

Senator NELSON entered public service in 1948 after serving 4 years in the

military during World War II. He served as a Wisconsin State senator, Governor, and then as a U.S. Senator for 18 years. As Governor, he was known for conservation efforts and preserving wetlands long before those causes became popular nationally. As a Senator, he built on his environmental reputation to further issues, including the preservation of the Appalachian Trail corridor and the creation of a national trail system.

While he left the Government in 1981, Gaylord Nelson never stopped fighting for the environment. He joined the Wilderness Society where he has worked tirelessly ever since. Even today at age 87, he is an active advocate for fragile lands around the country.

This year, Earth Day is a reminder of how much progress we have made and how much further we have yet to go. In the 1970s, the symbol of environmental decay was the burning Cuyahoga River, a waterway turned into a drainage ditch for industry. While Cleveland suffered much ridicule for that ecological disaster, they were not alone. At that time, our natural resources were being squandered and scarred in community after community.

Today such obvious examples of irresponsibility are harder to find. Now we struggle with pollution that is more diffuse and harder to track, but still dangerous. In Wisconsin, our northern lakes contain so much mercury the fish caught there are often unsafe to eat. And in the southeastern part of my State, the air is contaminated with pollutants, many of which traveled hundreds of miles before impacting our environment.

Challenges such as these require everyone in the region, the country, and even the world to work together to lower emissions and limit discharge. Global connectedness was what the original Earth Day was all about, and that message still needs to be heard today. Gaylord Nelson wanted us all to realize we could not escape the consequences of pollution by burying our garbage somewhere else or sending it up ever taller smokestacks.

Earth Day also reminds us we need to work internationally. We need to engage developing economies, such as China, India, and Russia, to head off major environmental disasters. We are not on this planet alone, and we can no longer pretend environmental damage around the globe does not come back to haunt us here at home. Senator Nelson understood that lesson almost 40 years ago, and he has been teaching it to the rest of us ever since.

We have made progress in heeding Gaylord Nelson's call to action over the last 34 years. Water quality is better off than it was in 1970. Many dangerous toxins are off the market, and some large environmental disasters of the past are clean today. But we certainly are not ready to declare we do not need Earth Day anymore, and we are not ready to let Gaylord Nelson retire. We are more aware today of the global and long-term impact our actions have on our Earth, and with that greater awareness comes a greater responsibility to leave the planet cleaner and healthier.

Earth Day is an opportunity for Members of Congress to recommit ourselves to that goal, and Earth Day is a day to thank Gaylord Nelson for focusing us on how we impact the environment that sustains us and the legacy we owe to the generations that follow us.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, there is no one here from the majority. I know this is time that has been set aside for morning business, and we have assigned speakers on this side. Senator DURBIN came over early this morning and expressed a desire to speak regarding Mary McGrory, who was a friend of a number of people in this body and thousands of people around the country. Senator DORGAN also came here to speak on her behalf. We have some extra time now.

Since there is no one here—and if the majority needs additional time, we will give that to them—I ask unanimous consent that there be an additional 10 minutes in morning business so that Senators on this side may speak about Mary McGrory. We also add that time in morning business for the majority. That will be an additional 20 minutes if, in fact, the majority wants that time.

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

The Senator from Illinois.

Mr. DURBIN. I thank the Chair.

TRIBUTE TO MARY McGRORY

Mr. DURBIN. Madam President, I thank the Senator from Nevada for trying to accommodate a number of us who are anxious to come to the floor and say a few words about a great woman.

America lost one of its greatest journalists last night. Washington Post columnist Mary McGrory filed her last story at George Washington Hospital. Mary McGrory has been described by her peers as a ''luminous writer,'' ''the clearest thinker in the business,'' ''a pioneering force in today's journalism,'' ''a lyrical writer.''

She hailed from the same Boston Irish roots as Tip O'Neill. She found the love of her life in the written word. She made it to the top in a man's world of reporting and sharp-elbow politics. There are those who ply their journalistic trade with blunt instruments and short-lived prose, but there are a few who make their word march and sing. Mary McGrory was one of those few.

I first heard her name 38 years ago when I was a college intern in the Senate. I can recall Senator Paul Douglas' personal secretary telling the Senator Mary McGrory was waiting to see him. Thirty years later, elected to the Senate, my staff would tell me, Mary McGrory is waiting to see you.

One could not help but be drawn to Mary, her Irish wit, her boundless energy, even in the later years. Her blunt criticism of hypocrisy and venality were a joy to witness.

It was my good fortune to be a member of Mary McGrory's ''fruitcake club.'' It was a loose conspiracy drawn together for dinner at Mary's home at least once a year to celebrate the much honored but seldom eaten fruitcake which Senator Max Cleland sent to Mary at Christmas. We would all arrive late after votes on the House and Senate floor—Max Cleland, Congresswoman Louise Slaughter of New York, Phil and Melanne Verveer, longtime friends and a few new aspirants to the club. What followed were endless rounds of wine and a beef roast that always seemed to need a return trip to the oven.

After dinner, we would move to the living room surrounded by the mementos of Mary's storied career, reminders of her proud mention on Richard Nixon's enemy's list, rollcalls from the Watergate hearing and more. Over her desk, where she sat down to write at home, was a poem by her beloved W B. Yeats entitled ''Adam's Curse.''

I spotted it and started to read it one evening at the party, and Mary saw me. She walked over and recited from memory this part of the poem:

Better go down upon your marrow-bones
And scrub a kitchen pavement, or break stones
Like an old pauper, in all kinds of weather;
For to articulate sweet sounds together
Is to work harder than all these, and yet
Be thought an idler by the noisy set
Of bankers, schoolmasters and clergymen
The martyrs call the world.

Mary McGrory understood the burden of good writing. Yeats tells us in this poem that producing something beautiful is not easy, though it has the curse of looking easy. Mary McGrory did indeed make it look easy. Mary's poetry and beauty were shared in her word and in her life, and many of us were blessed to be a very small part of it.

Before she was cruelly silenced by a stroke last year, Mary would write and speak with the emotion of a poet's heart. I recall our last dinner when she turned and recited to me one of her favorite poems by William Butler Yeats. It is entitled ''When You Are Old.''

When you are old and grey and full of sleep,
And nodding by the fire, take down this book,
And slowly read, and dream of the soft look
Your eyes had once, and of their shadows deep;
How many loved your moments of glad grace,
And loved your beauty with love false or true,
But one man loved the pilgrim soul in you,
And loved the sorrows of your changing face;
And bending down beside the glowing bars,
Murmur, a little sadly, how Love fled
And paced upon the mountains overhead
And hid his face amid a crowd of stars.

In the clear night sky over our Nation's Capital there will always be one bright star called Mary.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I personally express my appreciation to Senator DURBIN for his remarkable words on behalf of a tremendously interesting woman. I did not know Mary McGrory when she was a young woman; I only knew her when she was an older woman. She would come to my office and say: You have got more to tell me than that.

She was a wonderful person, and I was a newcomer to her fruitcake society gatherings, but I do say that one of the things that did break her heart was the defeat of Max Cleland. She talked to me about that more than she talked to me about many other things. She cared a great deal about Max, and of all of the unfairness in life that she had seen that was at the top of her list.

Mary McGrory is somebody who stood for fairness. A lot of people in the world are for fairness and level playing fields, but very few people are gifted. She was gifted. There are gifted athletes in the world. She was a gifted writer. She could write and you would say to yourself, that is how I feel, why can I not express it the way she does?

I will miss Mary very much. She was a wonderful woman, someone I will always remember as a person who not only believed in level playing fields but created many level playing fields during her lifetime.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, Mary McGrory was not always easy on me. In fact, sometimes I thought she was a little tough on me. On the other hand, I have to acknowledge she was a great writer. I enjoyed her personally. We had a number of conversations where we had very pleasant exchanges.

There is no question she was truly one of the most important journalists in this town. She was critical to the Washington Post. She believed what she did, she believed what she wrote, and she wrote well and set journalistic standards for many young journalists to follow.

I personally respected her and am grieved at her death. It was not unexpected. We know she had some difficulties over the last few years. But I, for one, will grieve at her death.

Mr. KENNEDY. Madam President, the Kennedy family, the city, and the nation lost a respected and valued friend yesterday with the passing of Mary McGrory.

My brothers, Jack and Bobby, admired her, as America does and did. Mary was Boston Irish to the core. Boston is proud of its many sons and daughters who have played a role in the country's life, and Mary McGrory was certainly in our nation's Hall of Fame as one of the all-time greats in journalism.

Here in the Nation's Capital, in this city of America's monuments, Mary McGrory belongs among them. She will always be remembered and respected for her keen intellect, her deep allegiance to the truth, her unquestioned integrity, her respect for principled leadership, as well as her impatience for empty policies and hollow politics.

Mary loved the issues, but she also loved her flowers and she loved to quote the poet Yeats. She was steeped with a keen sense of the levity of life, and she held everyone she met to the same high standards that she expected for herself. No other journalist could cut to the heart of a complicated issue as quickly or as beautifully as Mary McGrory could. Millions across the Nation eagerly looked for her writings, and the glow of her morning columns could last the entire day. I often thought she should win a Pulitzer Prize every year.

Vicky and I had the chance to visit with Mary last month. We were saddened by her long illness, but she remained the same beautiful, inquisitive, insightful, and full-of-life Mary to the very end. We'll miss her very much. We love you, Mary, and we always will.

Mr. DODD. Madam President, it is with a great deal of sadness that I rise in memory of an outstanding journalist and a good friend, Mary McGrory, who passed away last night at the age of 85.

Mary was truly one of the most accomplished journalists of our time. She was a real news reporter—one who spent enormous amounts of time and energy getting to the bottom of a story, and then spent hours more putting it into the right words. With her trademark wit and Pulitzer-Prize winning prose, Mary McGrory helped millions of Americans understand some of the most significant events of the past 50 years—from the McCarthy hearings, the Kennedy assassination, and Watergate to the attacks of September 11 and the buildup to the war in Iraq.

She began her career in journalism writing book reviews and other pieces for the Boston Herald-Traveler. In 1947, she transferred to the Washington Star, and it was there that she made her mark as a reporter. She remained at the Star until the paper shut down in 1981. From then on, she wrote for the Washington Post for over two decades. The only thing that could stop Mary from writing was the stroke she suffered a little over a year ago.

Mary's skill, integrity, and relentless effort won her tremendous esteem from her colleagues, as well as from the public figures whose lives and actions she detailed. Mary broke into a field that was very much a man's world, and she established herself as one of its giants. Her stature was clear to anyone who ever saw her during a political campaign, when fellow reporters and even the candidates themselves would literally carry her bags.

Mary came from the old school of reporting. During her later years, while many of her younger colleagues traveled with laptops, digital recorders, and cell phones, Mary made do with her pen and notebook.

Mary was never one to beat around the bush in her writing. You always knew where she stood. Her no-nonsense approach could delight those who agreed with her, and infuriate those who did not. But regardless of whether you were on her side or not, Mary McGrory earned your respect.

I was fortunate to experience not only Mary's writing, but her singular personality. She was truly someone who enjoyed life and tried to squeeze every last drop out of it.

I would like to share a few thoughts on Mary from some of her colleagues:

David Broder of the Washington Post said:

> If you traveled with Mary, you watched a consummate craftsman hard at work, an interviewer whose soft purr put citizens at ease and disarmed the most hard-shelled old pols. She talked with everyone, and everyone, great and small, wanted to talk with her.

Leonard Downie, Jr., the Executive Editor of the Washington Post:

> Mary was simply one of the best opinion columnists of her time.

Maureen Dowd of the New York Times called Mary:

> the most luminous writer and clearest thinker in the business.

Finally, Brian McGrory of the Boston Globe, who is also Mary's cousin, described Mary's life as:

> one of the most important, colorful, and enduring newspaper careers that the American public has had the pleasure to read.

I mourn Mary's passing. But I also celebrate her life. She was truly an outstanding reporter and writer, and a remarkable human being. We will all miss her very much.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent that the time on the quorum call run equally against both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. How much time remains in morning business on our side?

The PRESIDING OFFICER. There are 28½ minutes remaining.

Mr. DORGAN. Let me yield as much time as I may consume to myself.

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

Mr. DORGAN. This morning's news is very sad news for those of us who knew and loved Mary McGrory, one of the wonderful writers of our age, one of the really interesting thinkers and warm and wonderful human beings. According to the news reports, she died last evening at a hospital here in Washington, DC.

I wrote her a letter some months ago telling Mary, after she had fallen ill:

I have been waiting and hoping that I may again see your byline in the Washington Post. I remain hopeful that we will once again be able to start the day by reading a Mary McGrory column and then shaking our fist in the air, shouting: Yes that is what I should have said.

Mary never did get back to work. Her column never again appeared. But this Capitol Building, the op-ed pages of the Washington Post, and political discourse in this country for 50 years have been affected by what Mary thought, what Mary said, and what Mary wrote.

She was quite a remarkable person. She won a Pulitzer Prize. She covered the major events for over 50 years, and she wrote columns using words that were extraordinary. She would find ways to say things that most of us are at a loss to explain.

Often in the morning I would open the newspaper to see the Mary McGrory column and think how wonderfully she wrote. More than that, she was also a very special friend to many of us, in many ways. She would stand outside this Chamber, sometimes early in the morning, sometimes late at night, and she would get the story. She would do the hard work, ask the questions, follow people until she got answers, and then she would write her column. Her cousin, Brian McGrory, wrote a piece that appeared in the Boston Globe and the Washington Post about Mary. He probably describes her best, and in many ways brings a smile to those of us who knew Mary. He said:

While most Washington pundits closet themselves with their own profound thoughts, interrupted only by lunch at the Palm with the Secretary of Something, Mary employs old-fashioned tools: a sensible pair of shoes, a Bic, and a notebook. She haunts congressional hearings. She sits with the unwashed in the back of the White House briefing room.

He also said at the end of his article—this is an article that was written last November when Mary was ill:

Hers is a world of soft irony. She checks into elaborate spas in Italy every year, but while there, always gains a few pounds. She was audited by the Nixon administration and got a refund. At a stiff Washington party she once whispered to me, ''Always approach the shrimp bowl like you own it.''

Mary McGrory was a wonderful human being with a great sense of humor. But she wrote like the wind. I wish I could again see her byline. David Broder in January wrote a wonderful piece about Mary Mack. He began:

I am headed out this week for my 12th presidential campaign, but unlike the first 11, I will not have the company of my favorite traveling companion, Mary McGrory. The great liberal columnist, surely the most elegant newspaper writer Americans have read over the past half-century, has been ill since last March and recently accepted the generous buyout offer given to veteran employees by the Post. Incomprehensible as it seems, she has finished her journalistic career.

Then David Broder, in his own inimitable style, describes Mary McGrory.

I think of Mary McGrory. I think of not just seeing her here in the Capitol, or having lunch with Mary, I think of the questions she would ask politicians. I was on the receiving end of a number of those questions: Always coming from the oblique, always a bit different, from a slightly different angle, always from a slightly different perspective. Often they were the questions others didn't ask or wouldn't ask. She had a very inquiring mind and she had a wonderful ability to write.

So we will no longer be blessed with the presence of Mary McGrory here in this Capitol Building and in this Capitol of the United States, covering the major events, which she started doing 50 years ago in the McCarthy hearings. But she will be in our thoughts forever. My thoughts and prayers go out to Mary's relatives.

I attended a service once at which Senator BYRD spoke. He finished with a quote from Thomas Moore. The last two lines were:

You can shatter, you can break the vase if you will,
But the scent of the roses will hang round it still.

Although Mary has passed and all of us are saddened by the loss of a friend and America has lost one of the great writers in the last half century, Mary will remain with us forever.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. It is my understanding we are still in morning business and we have about 5 or 6 minutes remaining on our side?

The PRESIDING OFFICER. There are 18 minutes remaining.

Mr. BURNS. I ask unanimous consent that I may proceed and use that time up.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say to my friend from Montana, that is true. We extended your side an additional 10 minutes. Your time was gone, but now you have additional time. As to when it is used now—you were to get the first half; we were to get the second half. It is kind of a jump ball right now, so you have the floor for 11½ minutes.

EARTH DAY

Mr. BURNS. Madam President, I thank my friend from Nevada and my good friend from Vermont. Today is Earth Day. Of course, most of us who are involved in agriculture, we don't set aside one specific day. Every day is Earth Day for those of us who use the Earth to produce the wealth of the country.

Anyway, every year about this time they always release the index of leading environmental indicators, which gives us an overall measuring stick on how good or how bad we are doing in dealing with the environment. This press release came out of San Francisco. It is released by a group that is a think tank in Bozeman, MT. They brought out some information that we tend to forget when we talk about the environment. Steven Hayward wrote the press release. Of course we are doing better than a lot of people think we are doing.

Environmental quality is improving steadily, in some cases dramatically, in key areas with which we try to deal. Vehicle emissions are dropping about 10 percent per year as the fleet turns over to inherently cleaner vehicles, including SUVs. We are making progress. Ninety-four percent of the population is served by water systems that have reported no violation of any health-based standards.

We are getting better in trying to provide clean water for our citizens. There has been a 55-percent decline in toxic releases since 1988 even while total output of industries covered by this measurement has increased 40 percent. We are making progress. That is dramatic progress as far as quality is concerned.

Despite most popular assumptions, U.S. air quality tends to be found at least equal, if not slightly better, than in Europe. It seems we have a lot of people who distract and criticize us for our environmental policies.

This year's index includes a list of the media's best environmental reporting on that, which includes the Boston Globe, the Washington Post, the Atlantic Monthly, the New York Times, the Los Angeles Times, the New Republic, and the Wall Street Journal.

In other words, all of these folks have earned their spurs, so to speak, in keeping the public informed on such matters.

There have also been notable improvements in our Government reporting with the EPA's first ever composite on national trends and State-based initiatives to improve water quality reporting and monitoring.

Private conservation efforts, such as Ducks Unlimited, and private water trusts have been highly successful as reported this year.

The index reports one of the few areas to show a decline in the quality is that of public lands. While funding and land allotments have increased, quality has deteriorated by the most significant measures. The root of the problem is excess of political management, and the answer can be found in innovative solutions such as land trusts and resource leases.

This year's index includes a special section comparing quality between the U.S. and Europe. We are winning that also.

The other ways:

Doomsaying and know-nothingism gets better headlines and work well for direct-mail fundraising . . . but a serious look at the data helps us to appreciate how far we've come, and helps us set priorities for the next generation of environmental activism.

Whenever we hear a lot of doomsaying that we are doing very badly, the scorecard reports to us overall a different kind of story. The only place we are not making any improvements at all is on the lands the Federal Government manages, not the land that is managed in the private sector.

I ask unanimous consent the entire text of the press release be printed in the RECORD.

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

EARTH DAY IS CAUSE FOR CELEBRATION: ENVIRONMENTAL TRENDS MOSTLY POSITIVE

(By Steven Hayward, with Michael De Alessi, Holly L. Fretwell, Brent Haglund, Joel Schwartz, Ryan Stowers, and Sam Thernstrom)

SAN FRANCISCO.—The ninth annual Index of Leading Environmental Indicators, released today by the Pacific Research Institute and the American Enterprise Institute, shows that the environment continues to be America's single greatest policy success. Environmental quality has improved so much, in fact, that it is nearly impossible to paint a grim, gloom-and-doom picture anymore.

Environmental quality is improving steadily and in some cases dramatically in key areas: Average vehicle emissions are dropping about 10 percent per year as the fleet turns over to inherently cleaner vehicles, including modern SUVs; ninety-four percent of the population is served by water systems that have reported no violations of any health-based standards; there has been a 55-percent decline in toxic releases since 1988, even while total output of the industries covered by this measurement has increased 40 percent; and despite most popular assumptions, U.S. air quality trends are found to be at least equal, if not slightly better, than in Europe.

This year's Index includes a list of the media's best environmental reporting. Featured outlets include Boston Globe, Washington Post, Atlantic Monthly, New York Times, Los Angeles Times, The New Republic, and Wall Street Journal.

There have also been notable improvements in government reporting, with the EPA's first-ever composite on national trends and state-based initiatives to improve water-quality monitoring.

Private conservation efforts, such as Ducks Unlimited and the Peregrine Fund, and private water trusts have been highly successful.

And recent findings in climate-change science also give reason for hope. Because the climate models have been based on flawed economic assumptions, there is even greater uncertainty now in the range of CO2 emissions projections. This means the prognosis is probably not as grim as conventional wisdom would have us believe.

The Index shows that one of the few areas to show a decline in quality is that of public lands. While funding and land allotments have increased, quality has deteriorated by most significant measures. The root of the problem is an excess of political management, and the answer can be found in innovative solutions such as land trusts and resource leases.

This year's Index also includes a special section comparing air quality in the U.S. and Europe.

''Doomsaying and know-nothingism get better headlines and work well for direct-mail fundraising,'' said lead author Steven Hayward, ''but a serious look at the data helps us appreciate how far we've come, and helps set priorities for the next generation of environmental activism.''

Mr. BURNS. Madam President, I yield the floor. I thank the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

MARY MCGRORY

Mr. LEAHY. Madam President, as I came on the floor, I heard a discussion of several Senators about the passing of Mary McGrory.

The distinguished senior Senator from Utah, who is now on the floor, and I were talking to editors and others at a press gathering in Washington this morning. I mentioned Mary McGrory at the beginning of that.

When Marcelle and I first came to Washington, Mary was one of the first people we met. I always enjoyed my time with her. She was a great writer with searching questions, and did not suffer fools idly. She was very quick and very able in deflating those who had inflated themselves far beyond what they deserved.

She also helped so many people. I remember the girl from an orphanage she helped, referring to her as ''Mary McGlory.'' Indeed, she has gone to her own glory now, but she made it possible for some others.

She was a remarkable person, a remarkable person who will not be matched. There will be many others who will carry the banner, but none will do it with her ability.

I also liked the fact every time she would take a vacation in Italy she would come and chat with me about it. My mother's family is still in Italy. We would discuss favorite recipes, notwithstanding our Irish names.

EARTH DAY

Mr. LEAHY. Madam President, Earth Day usually marks the beginning of the President's and his green team's migration out to our Nation's parks, forests, and wildlife refuges.

Since this is an election year, I am sure they are ramping up their efforts to greenwash their environmental record with very nice photo ops.

Greenwash, like whitewash, doesn't stick. You have only to open the daily newspaper to see the laserlike focus the Bush administration has taken to rolling back our environmental laws, and while doing so rewarding special interests and corporate polluters. The starkest example is their outright assault on the most bipartisan environmental law of the 20th century, the Clean Air Act. I say bipartisan because leading Republicans and leading Democrats across the political spectrum, in the House and in the Senate, came together to pass the Clean Air Act. My predecessor, the senior Senator from Vermont, Bob Stafford, was one of those leaders.

You would think of all acts, one that would be put together by Republicans and Democrats would be safe from assault by this Administration. That is not the case.

By stealthy executive fiat, the Administration has dismantled the Clean Air Act bit by bit to let polluting industries off the hook when it comes to cleaning up dirty coal-fired powerplants that each year belch hundreds of thousands of tons of soot and toxic pollutants—pollutants like mercury.

The administration's actions to retreat from strong mercury controls, to undermine current lawsuits against the biggest utility companies, and to allow new coal-fired powerplants to be built without the best controls amounts to a triple whammy for public health and the environment.

We often speak about being family friendly in this body. How do we tell a pregnant mother or a parent with small children how family friendly it is to allow more mercury into our air and into our water and the fish we eat.

When the Clean Air Act was passed, Congress gave coal-fired powerplants a grace period to either clean up or shut down. At the end of the Clinton administration, we were making real progress toward meeting that goal. States such as my State of Vermont, which have been the dumping ground for toxic pollutants like mercury for decades, were finally going to get some relief. But, unfortunately, the only people letting out a sigh of relief now are the CEOs and corporate attorneys in the boardrooms of multibillion dollar energy companies. They are the only ones celebrating this Earth Day.

Despite all of the administration's public relations tactics, I believe the American people are catching on, and enough is enough. To date, this Administration has made well over 300 rollbacks to our environmental protections. Think of that, three years in office and they have had 300 rollbacks of our environmental laws.

There is certainly a lot about which the American people should be outraged. But I think it is important to take note of the strong bipartisan and growing outcry about the Administration's latest retreat from the Clean Air Act in the form of its mercury proposal.

Senators SNOWE, JEFFORDS, DAYTON, and I were joined by 41 other Senators in calling on the administration to withdraw its mercury proposal. The concerns are building so swiftly they may soon reach critical mass.

Look at this map. It gives some indication why the concerns are so great and why the objections are bipartisan.

This is the Environmental Protection Agency's own map: ''Mercury Deposition in the United States.''

This is the Canadian border along here. Look how the mercury, because they are willing to violate and allow

violations of the Clean Air Act, comes across. Look how it inundates the States in this area. My own State of Vermont is basically hidden under the deepest red of mercury pollution on the chart.

The new EPA proposal to reduce mercury emissions was supposed to bring the powerplants into the 21st century and clean up their emissions. It does not do that. It falls short of what is necessary and falls far short of what is possible.

Despite the Administration's best efforts to use every tactic in its public relations arsenal to convince Americans more mercury in the water, food, and environment over a long period of time is the best we can do, it is not working.

In the last 2 months, much has come to light about the Administration's close collusion with polluting industries and devising its policy on mercury. The lobbyists from the industry sent their proposal to the Administration. The Administration does not even pretend to look at this scientifically or be independent. They just take it verbatim. They might as well have kept the letterheads from some of these companies. Instead of using the EPA letterhead, they could put ''Polluters 'R Us,'' or whatever industry sent to them. There are 20 examples where industry helped ghostwrite the mercury proposal.

In a way, it is almost humorous that they would be so blatant about turning this over to the polluters, except that it suggests a very serious breach of the public rulemaking process and undermines the public trust in EPA's ability to be an independent decision-maker and perform its mission to protect human health and safeguard the natural environment.

This Administration has a credibility problem about its approach to the Clean Air Act and to mercury pollution. New warnings about mercury risk from tuna, increasing numbers of pregnant women with mercury levels above safe levels, more newborns being born with high mercury levels, all are adding up to widespread and growing public demand for prompt action. We know from reports in the New York Times that the Bush administration employed a favorite tactic of sweeping science under the rug when it was drafting the mercury proposal.

But we cannot ignore the facts. This chart shows the estimates of newborn children and women with unsafe mercury blood levels. They have doubled. These are some of the estimates from EPA scientists about which the White House wished the American people did not know.

Anyone who has children or grandchildren should worry about this issue. Anybody who is expecting a child should worry about what this administration is doing. Anybody who has young children should worry about what they are doing. The estimate of women of childbearing age with mercury levels above what EPA considers safe has doubled. Apparently, the administration does not want the public to know that their mercury proposal does not go far enough fast enough to protect mothers and newborns from mercury.

The same strategy is to ignore career staff and public health experts in the administration's proposal to write a giant loophole into the Clean Air Act New Source Review, called NSR. For anyone who has not seen it, I suggest a careful reading of the New York Times magazine article from several weekends ago titled ''Up In Smoke'' to see how the Bush administration strategically placed industry lawyers in key positions at EPA, spending the last few years helping the biggest utility companies in the country get off the legal hook of pollution control plans. They put the fox in to guard the henhouse. They have said to industry—and these are industries that contributed mightily to this administration—they have said: We will set aside the nonpartisan nonpolitical scientists; we will set aside the people whose sworn duty is to be here to protect the American public; we will put your lawyers in place, and we will let them write the rules for the rest of the country.

Agency experts repeatedly warned the political appointees at the EPA that through new policy, this new NSR policy would undercut the lawsuits.

And they went even further. They gave industry even more than they asked for and now industry attorneys are going to court where cases have been brought and are saying they should be dismissed because of the administration's actions. This is a very real problem in States like mine, if you are downwind.

If Government wins the NSR cases despite the administration's back-door tactics and hundreds of thousands of tons of toxic pollutants will be cut.

Unfortunately, the Bush administration is not satisfied. Retreating from strong mercury controls, undermining the NSR cases, is not enough. We now have reports that say the administration is considering new guidelines to States to limit their ability to require that new coal-fired plants use the best available technology to reduce emissions. That should set off alarm bells in the Northeast.

This chart shows where new proposed plants are. The power industry has plans to build nearly 100 new coal-fired powerplants in the United States over the next 10 years, but the administration is trying to make darn sure they do not have to put in the kind of technology necessary to cut pollutants. These plants, located mostly in the Midwest and Great Lakes, will add thousands of pounds of new pollutants to our Nation's air.

Over the last several decades, we have learned what comes out of the plants ends up in the lakes, rivers, and streams, as well as the food supplies of the children in the Northeast.

If coal really is making a come back, as people predict, we should ensure it is not at the expense of our health and environment. On every front, the Bush administration is selling American technology and American ingenuity short. The administrations is setting the bar way too low, and they have set the clock for far too long. The technology exists to go much further. The administration needs to start putting the public interest ahead of special interests and tell the industry to use it. Just think of that, putting the public interest ahead of special interest. What a novel idea. If we did that, the American people would much better served.

I hope the administration will withdraw its industry-ghostwritten, scientifically unjustifiable mercury rule, withdraw its NSR policy and drop plans to allow new powerplants to be built without the best environmental controls. I worry that the industry stalwarts within the administration will continue with their schemes to let corporate polluters off the hook.

Remember, this is the same White House that tried to put more arsenic in our drinking water. The American people know their real slogan is, ''Go ahead and pollute, we don't give a hoot.''

I yield the floor.

Mr. HATCH. What is the parliamentary situation?

The PRESIDING OFFICER. There are 3½ minutes on the majority side for morning business.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Utah.

PRO-ENVIRONMENT ADMINISTRATION

Mr. HATCH. Mr. President, I do not know how anybody can walk on the Senate floor and say Republicans—any Republicans or Democrats—are not for the environment.

Now, I have to say we from the West understand the importance of balancing the environment with jobs and families and opportunities. I think we do a pretty good job. We have to continue to be vigilant about the environment. But I think to try to make the case that this administration is anti-environment is not only a stretch, it is false.

This administration is pro-environment, but it is also pro-jobs, pro-family, pro-geographical areas, pro-West, and pro-proper utilization of Federal lands—almost all of which the environmental extremists decry.

To accuse the administration of putting arsenic in the water or being part of something that puts arsenic in the water is, I think, beyond the pale. The fact is, in many municipalities and towns the small bits of arsenic in the water are not dangerous, according to the EPA and others, but the costs of trying to change their water systems are so exorbitant they could not exist as towns.

Nobody wants any dilatory substance in our water. In fact, for years this

town has been run by people from both parties, and, of course, we know the water in this town has all kinds of problems. Yet this is the greatest city in the world. So I think it is basically a stretch and an exaggeration and, of course, a seizure of political opportunity to criticize this administration environmentally in the way some of my colleagues have chosen to do.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2004—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2290, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to the bill (S. 2290) to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes for debate equally divided between the chairman and ranking member of the Judiciary Committee or their designees.

The Senator from Utah.

Mr. HATCH. Mr. President, my colleagues and I have been talking all week about the long overdue reforms that the Hatch-Frist-Miller bill will deliver.

I think it is clear to anybody that asbestos litigation has been spinning out of control with no end in sight for far too long. The shortcomings of the current system are crippling businesses, and, at the same time, depriving asbestos victims of prompt and adequate compensation for their injuries.

One of the most outrageous aspects of the current asbestos litigation system is that it allows—indeed, encourages—some lawyers of questionable ethics to find and bring claims that may be of questionable merit. In some egregious and hopefully rare instances, an entire plan of action has apparently evolved to track down potential claimants based more upon whether they can be properly coached to present a colorable claim than whether their claim has actual merit.

For example, I am told that several years ago, a first-year associate attorney at the law firm of Baron & Budd apparently inadvertently disclosed to defense counsel a memorandum that provides a sad but startling insight into how asbestos claims are created and spun into recoveries.

The memorandum, titled ''Preparing for Your Deposition,'' offers clients detailed instructions. They are shown how to sound credible when giving testimony that they worked with particular asbestos products. The memorandum seems to make every effort to instruct clients to assert particular points that will act to increase the value of their claim, without regard to whether those assertions are actually true. The memorandum even goes so far as to inform clients that a defense attorney will have no way of knowing whether they are lying about their exposure to particular asbestos products.

One excerpt from the memorandum appears to help claimants identify defendant companies and prepares them for a cross-examination that could reveal how flimsy their claim might be. It reads as follows. This is from the Baron & Budd memo ''Preparing for Your Deposition'':

You may be asked how you are able to recall so many product names. The best answer is to say that you recall seeing the names on the containers or on the product itself. The more you thought about it, the more you remembered! If the defense attorney asks you if you were shown pictures of products, wait for your attorney to advise you to answer, then say a girl from Baron & Budd showed you pictures of MANY products, and you picked out the ones you remembered.

Well, as you can see, that is pretty serious. Another excerpt from the memorandum steers claimants away from admissions that would undermine their claims. On this point, the memorandum equips witnesses with the following admonition. Again, from the Baron & Budd memo—one of the leading firms in these asbestos plaintiffs cases, to which more than $20 billion in fees—that is with a ''B''—have been given. Here is this counseling or coaching. Here is what this law firm memorandum said:

You will be asked if you ever saw any WARNING labels on containers of asbestos. It is important to maintain that you NEVER saw any labels on asbestos products that said WARNING or DANGER.

Finally, apparently to drive home the point that cross-examination may be of little value in certain circumstances, the memorandum advises claimants as follows—again, the same law firm:

Keep in mind that these [defense] attorneys are very young and WERE NOT PRESENT at the jobsites you worked at. They have NO RECORDS to tell them what products were used on a particular job, even if they act like they do.

Law Professor Lester Brickman has studied the asbestos litigation process extensively and has written detailed analyses of that process. Professor Brickman reviewed the law firm's memorandum and said:

In my opinion . . . this is subornation of perjury. Now, after the memorandum was discovered, the Dallas Observer conducted an investigation of the Baron law firm's asbestos practices. That investigation appeared to uncover an extensive process geared toward manipulating the asbestos litigation system.

As the Dallas Observer wrote:

Two former paralegals . . . both say that a client-coaching system was in place at the firm. Workers were routinely encouraged to remember seeing asbestos products on their jobs that they didn't truly recall.

Still another aspect of the Dallas Observer investigation into the Baron firm's handling of asbestos cases revealed a process that put a premium on schooling claimants by planting the right bits of information in their heads.

As the Dallas Observer reported:

A paralegal says that in many cases, the client had no specific recollection of some products before she interviewed them. ''My original caseload was a thousand, but I didn't interview that many people. It was in the hundreds. I'd say that probably in 75 percent of those cases I had people identify at least one product they couldn't recall originally.''

Now, manipulation of claimant memories and stories appear to have gone beyond implanting valuable facts to improve their claims. The Dallas Observer found that the Baron law firm also conveniently helped claimants eliminate facts from their stories where that would suit their purpose. The Observer reported the following:

According to the paralegals, their job didn't stop with implanting memories; there were also the asbestos products they had to encourage clients not to recall. Two lawyers told her to discourage identification of Johns-Manville products because the Manville Trust was not paying claims rendered against it at the time. ... Thus, when a client would say he saw, for instance, a Johns-Manville pipe covering, the paralegal says, she would hand them a line. ''You'd say, 'You know, we've talked to some other people, other witnesses, and they recall working with Owens-Corning Kaylo. Don't you think you saw that?' And they'd say, 'Yeah, maybe you're right.'''

Finally, another document obtained by the Observer consisted of handwritten notes apparently taken by a Baron & Budd attorney during an internal training session. I will just say these are the things that are wrong with asbestos litigation. Is this counseling or coaching? The memorandum states: ''Warn plaintiffs not to say you were around it—even if you were—after you knew it was dangerous.''

These practices, if they indeed took place—and I hope they did not take place in the way the Dallas Observer described them in its investigative report—distort a system that is already struggling to provide fairness. If lawyers for purported asbestos victims coach clients to lie in this manner, they may win some big fees for themselves along with some unjustified awards for clients who aren't actually sick, such practices have a sinister effect: They deprive seriously injured asbestos victims of the swift and fair recoveries that they deserve for their injuries and they cheat the payer firm out of money, they cheat employees of these firms out of their jobs, and they cheat investors and individual retirees of these firms out of their investments.

The time to act is now. I urge my colleagues to vote to invoke cloture against the minority's obstructive tactics. We owe it to these victims to put a halt to these abusive practices that

enrich the few at the expense of many and enrich those who are not sick at the expense of those who are. We owe it to hardworking Americans who stand to lose their jobs and pensions because of this asbestos mess. And we owe it to everyday Americans to provide them a civil justice systems that works.

Ray Klappert lives in Ft. Lauderdale, FL, and is actively supporting passage of legislation establishing an asbestos trust fund. His support is not surprising given the serious asbestos health problems he may be facing in the future. Here is Ray's story:

Ray's father, Fred Klappert, was a Korean War veteran and self-employed in the construction business. In 1973, Fred contracted to work on the renovation of the interior of a commercial building in Miami Beach. During the renovation, which lasted several months and involved a partial demolition of the old building, Fred was exposed to asbestos.

Twenty-five years later, Fred Klappert developed a severe cough and doctors eventually diagnosed him with asbestosis. Fred has since passed away. Unfortunately, the Klapperts had nowhere to turn for help and no source from which to be compensated for their loss.

Ray has since learned about the dangers of asbestos and has grown quite concerned for his own health. Ray worked with his father on that same building in 1973. Ray fears he may also acquire an asbestos-related disease and, like his father, have nowhere to turn for help.

An asbestos trust fund ensures a potential asbestos victim like Ray Klappert that there will still be adequate compensation in the future—that will not be the case if asbestos litigation remains our method in the tort system. If a trust is established, Ray will not have to worry whether the defendant companies come insolvent, and thus the prospect of collecting pennies on the dollar from some bankruptcy trust. He also knows that the legislation will ensure that if he needs it, he will have access to medical monitoring as soon as the bill is enacted. This kind of security is essential for the peace of mind of all future asbestos victims.

What is wrong with asbestos litigation? It is running out of control and ruining our legal system. Compensation for victims such as Fred and Ray Klappert, under the current system, nothing. Under the FAIR Act, they get compensated.

Passage of S. 2290 will give Ray confidence that help is available should he need it in the future. If the legislation fails, Ray Klappert, like his father, will become just another victim of a tort system that has failed and will continue to fail thousands of Americans who have been exposed to asbestos.

As the asbestos litigation crisis continues unabated, nearly all of the major asbestos manufacturers are bankrupt. Consequently, more and more small businesses are forced to defend these costly lawsuits—some of which are without merit. A compelling illustration of this epidemic is the case of Monroe Rubber and Gasket, a small Monroe, Louisiana business with only 15 remaining employees—a number down 33 percent since asbestos litigation began against the company just 4 years ago.

Prior to 1986, Monroe Rubber and Gasket used a compressed asbestos sheet in manufacturing its gaskets. Mike Carter, one of its owners, called for a thorough examination of the company's gasket manufacturing process in order to determine whether any asbestos was actually released into the air when this sheet was cut. The results were negative. Additionally, not a single Monroe Rubber and Gasket employee, including Mr. Carter, who has worked around his company's products for decades, has acquired an asbestos-related disease.

In 2000, despite its decision to end the practice of using any products containing asbestos in its gasket manufacturing process nearly fourteen years earlier, Monroe Rubber and Gasket began to be named in lawsuits on behalf of individuals who worked at chemical plants and paper mills that used the company's gaskets in their own machinery. There are approximately 75 lawsuits currently pending against the company. In some cases, Monroe Rubber and Gasket is the only defendant. In others, Monroe Rubber and Gasket is simply one of dozens. I must point out that not one such lawsuit against Monroe Rubber and Gasket involves a current or former employee of the company. Needless to say, that reeks of irony.

Fighting these kinds of lawsuits is cost-prohibitive, especially for a small business that is at best a peripheral defendant. According to Mr. Carter, asbestos litigation costs his company more than $250,000 a year, and, if you can believe it, not one such claim against Monroe Rubber and Gasket has actually gone to trial. In addition to not including a case that has reached final disposition, this cost also fails to include the loss of productivity resulting from the thousands of hours spent on the litigation by Mr. Carter himself.

What is wrong with asbestos litigation? Take the case of Monroe Rubber and Gasket: The cost of litigation so far, $250,000 a year; the lawsuits filed against the company, 75; the workforce loss, 33 percent; the number of company employees who are sick throughout eternity has been zero; the number of company employees who have sued, zero. Yet this company is being torn apart by litigation that it should not have to face.

The impact of these considerable losses is felt not only by Mr. Carter and his fellow small business owners, but also by the employees. Moreover, Monroe Rubber and Gasket has been forced to cancel plans to open a new facility in Arkansas. The money that was going to be used to underwrite the expansion has gone instead to the lawyers. Some of them were not so voracious. They are defense lawyers who had to be retained under these circumstances.

For Mike Carter and the employees at Monroe Rubber and Gasket, the issue is simple—unless we choose to act, they will be out of work. At the moment, most of the costs of the litigation are covered by insurance, but it is uncertain how long that will last. In fact, the employees don't know who will go bankrupt first—the company or its insurance carrier. What they do know, however, is that if we fail to act, they will soon join thousands and thousands of other American workers who are out of work or who lost their pensions or their health plans because of the nightmare of asbestos litigation. This is not a fair and just result, and Congress should act to rectify the situation.

Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. Fourteen minutes.

Mr. HATCH. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont.

Mr. LEAHY. Mr. President, I am disappointed my friends across the aisle are insisting on proceeding to this partisan asbestos bill. I say that because the legislation is not ready for prime time. It is not ready for floor consideration. I am one who believes the Senate should pass legislation to establish a national trust fund to compensate asbestos victims. Actually, I chaired the first Judiciary Committee hearing on this subject back in September of 2002.

This bill would create a trust fund with unfair compensation, inadequate funding, no startup protections, delayed sunset provisions, and major solvency problems. Despite its title, this partisan bill is far from fair.

It is a mistake for the Republican leadership to insist on proceeding to a bill with so many major problems still unresolved. Again, this bill is not ready for floor consideration.

We did have a bipartisan dialog over the past year, and I hoped that would yield a fair and efficient compensation system we could in good conscience offer to those suffering today from asbestos-related diseases and also to those victims who we know are going to come in the future.

Unfortunately, the Senate majority leadership decided to walk away from those negotiations and resort to unilateralism by introducing a partisan bill, and that is a shame. I believe so many of my friends on the Republican side would like to have a good bill, but to have a good bill of this complexity requires real work and we have to work as legislators and we have to have substance, not symbolism. We have to have reality, not rhetoric.

The introduction of this bill raises many questions—most notably what

the sponsors are trying to achieve because it is certainly not a fair compensation model for asbestos victims. By breaking off the bipartisan negotiations and hastily pushing a bill to the floor, the Republicans have turned their back on all of us who have worked so hard for so long to find a fair solution.

Creating a fair national trust fund to compensate asbestos victims is one of the most complex legislative undertakings I have been involved with in nearly 29 years in the Senate. The interrelated aspects necessary for a fair national trust fund are like a Rubik's Cube, and that is all the more reason why we should have a fair national trust fund bill and have it be a consensus piece of legislation. Otherwise it does not work, it does not become law.

That is why I have been involved in months of bipartisan negotiations. I worked so hard to encourage the interested stakeholders to reach agreement on all these critical details.

I thank Senators DASCHLE, DODD, FEINSTEIN, SPECTER, and other Senators, the representatives from organized labor, the trial bar, and industry who worked so hard to try to reach consensus on a national trust fund that would fairly compensate asbestos victims and also to provide the financial certainty for their defendants and their insurers.

We did reach bipartisan agreement on two of the four cornerstones of a successful trust fund. Senator HATCH and I brought together the Leahy-Hatch amendment that gave appropriate medical criteria to determine who should receive compensation and an efficient, expedited system for processing claims. But we have yet to reach consensus on the other two cornerstones of a successful trust fund—fair award values for asbestos victims and adequate funding to pay for the compensation. Even if we have the medical criteria and if we lowball the amounts, if we do not adequately handle it, it makes no difference.

Bipartisan medical criteria have already eliminated what businesses contend were the most troublesome claims, but that kind of fair compensation is not free.

The Judiciary Committee's unanimous agreement on the Leahy-Hatch medical criteria is meaningless if the majority, in effect, rewrites the categories by failing to compensate those who fall within them. Even with consensus on medical criteria, if the award value is unfair, then the bill is unfair and it is unworthy of our support. That is the case with this partisan bill.

Since my first hearing on this issue nearly 2 years ago, I have emphasized one bedrock principle: It has to be a balanced solution. I cannot support a bill that gives inadequate compensation to victims. I will not adjust fair award values into some discounted amount to make the final tally come within a predetermined and artificial limit. That is not fair.

It is critical that there is adequate funding at the inception of a national trust fund since there are more than 300,000 current pending cases in our legal system. Upfront contributions from defendants and insurers will be necessary to accommodate the inevitable, and that is thousands of these pending claims coming in on the very first day of the trust fund.

The new Hatch-Frist bill actually provides less upfront funding and less overall funding than we voted out of the Judiciary Committee. That is not fair. The partisan emphasis in this bill on behalf of the industrial and insurance companies involved, to the detriment of victims, has produced an unbalanced bill. This bill is a reflection of the priorities that went into it.

Many of us have worked hard for more than a year toward the goal of a consensus asbestos bill. So this new partisan bill is especially saddening and confounding. We could have a bill that protects defendants; it would protect the insurance companies; it would protect the corporations; and it would protect the people who have been sickened by asbestos. We could have done that. We could have brought finality to this issue. We could have ended endless litigation. We could have let corporations go on with their business. We could have made sure the victims knew they were going to get adequate compensation. We have missed a golden opportunity.

After the cloture vote on this partisan asbestos bill, the Senate will take up and pass the Kyl-Feinstein-Hatch-Leahy crime victims' rights legislation. This bipartisan legislation is a good example of what the Senate can do when we work together to reach consensus. Unfortunately, the bipartisan process of the crime victims' rights legislation is being abandoned by the majority on this partisan asbestos bill.

We should be asking ourselves this question: Does this partisan turn the sponsors of this bill have taken help or hurt our efforts to produce and enact a consensus asbestos bill? I say it does not help.

We have enough of a debate going on behind me, so I will yield to someone in a different part of the Chamber, Senator KENNEDY, so he can make himself heard for 10 minutes.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BAUCUS. Mr. President, will the Senator yield? I am curious as to how long the Senator will be speaking.

Mr. KENNEDY. Ten minutes.

Mr. BAUCUS. I thank the Senator.

Mr. KENNEDY. Mr. President, the real crisis which confronts us is not an asbestos litigation crisis, it is an asbestos-induced disease crisis. Asbestos is the most lethal substance ever widely used in the workplace. Between 1940 and 1980, there were 27½ million workers in this country who were exposed to asbestos on the job and nearly 19 million of them had high levels of exposure over long periods of time, and that exposure changed many of their lives.

Each year more than 10,000 of them die from lung cancer and other diseases caused by asbestos. Each year, hundreds of thousands of them suffer from lung conditions which make breathing so difficult they cannot engage in the routine activities of daily life. Even more have become unemployable due to their medical condition.

Because of the long latency period of these diseases, all of them live with a fear of a premature death due to asbestos-induced disease. These are the real victims. They deserve to be the first and foremost focus of our concern. The victims are average, hard-working Americans. They are the construction workers who build our houses, machinists who keep our factories running, assembly workers who make products for our home, shipbuilders who help make our country strong and secure. They did their jobs faithfully and now it is time for us to do right by them.

All too often, the resulting tragedy these seriously ill workers and their families are enduring becomes lost in a complex debate about the economic impact of asbestos litigation. We cannot allow that to happen. The litigation did not create these costs. Exposure to asbestos created them. They are the costs of medical care, the lost wages of incapacitated workers, the cost of providing for the families of workers who died years before their time. Those costs are real. No legislative proposal can make them disappear. All legislation can do is shift those costs from one party to another.

Any proposal which would have the effect of shifting more of the financial burden on to the backs of injured workers is unacceptable to me, and I would hope that it would be unacceptable to every one of us. Unfortunately, that is precisely what the Frist bill would do.

The bill before us does not reflect what is necessary to compensate the enormous numbers of workers who suffer from asbestos-induced disease. It reflects only what the companies who made them sick are willing to pay.

The compensation levels in the Frist bill are unreasonably low, especially for the most seriously ill worker. They would receive much less compensation under the bill than they are currently getting on average in the tort system. For example, workers with 15 years of exposure to asbestos, who are dying of lung cancer, would get as little as $25,000 under the Frist bill. That is absurd.

While most of these workers smoke, a person who smoked and was exposed to asbestos is over four times more likely to get lung cancer than a person who smoked but was not exposed to asbestos. Asbestos was clearly a major contributing factor to their lung cancers. Yet this bill would give them next to nothing. Not only does this bill not provide adequate levels of compensation, there is no guarantee that sufficient funds will be available to fully

pay all injured workers who are eligible, even what the bill promises them.

According to a CBO analysis, the Frist bill is underfunded by nearly $30 billion. If the asbestos trust fund does become insolvent, workers will have to wait years before they can return to the tort system, and many of them will be dead by then.

Any proposal which would merely create one new, large, unfunded trust in place of the many smaller underfunded bankruptcy trusts which exist today is unacceptable. Injured workers need certainty even more than businesses and insurers. The Frist bill merely shifts more of the financial burden of asbestos-induced disease to the injured workers by unfairly and arbitrarily limiting the liability of defendants.

Sick workers would receive lower levels of compensation than they receive on average in the current system, and payment of even those lower levels of compensation would not be guaranteed. That is no solution at all.

I hope we would not consider this bill before us but go back to the drawing board and get a bill that will meet the needs of all the parties.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I rise today to say I most regretfully oppose the motion to invoke cloture on the motion to proceed to the bill. I do not think we are quite ready. I do not think we are ready to tackle this important and complex legislation at this time.

This is a bill that would end for decades the rights of individual citizens to seek justice and compensation for their injuries in a court of law. That is not something we should act on too quickly; that is, before we have a complete understanding of what it is that we are doing and how it will impact asbestos victims, businesses, insurers over the long run.

Senators HATCH, LEAHY, and SPECTER, though, and many others, have worked very hard on this bill. Because of their efforts, we have come closer to a final compromise than I think anyone would have believed possible early last year. That is why I am puzzled, frankly, that we feel the need to rush to the floor to finish this bill before we have exhausted all opportunities to come to a compromise on the outstanding and very tough issues. Negotiations have yielded significant progress in certain areas. I believe there is no reason to believe that continued negotiations will not yield even more progress.

Being in the Senate, I have learned if one sticks to it and with it, one can find ways to work out solutions to very difficult problems.

My primary concern, though, has always been protecting the people of Libby, MT, in any asbestos legislation that Congress considers. I know I do not need to go into the details of the Libby tragedy because my colleagues have heard them many times, but I will emphasize that their situation for me, and for them especially, is unique. An entire town was poisoned with asbestos for decades by W.R. Grace, a company that lied to its workers, lied to the community about the deadly dust which it was exposing its workers to, lied to the families, and lied to the whole community. Hundreds of people have already died or become very sick, and hundreds more will likely follow.

I have pledged to the people of Libby that I will do everything in my power to help them make their community whole again, to make sure their long-term health care needs are met. The health care costs associated with treating asbestos-related diseases are crippling to families who do not have health care and are uninsurable and to a community that is struggling to get its economy back on track. Simple, routine procedures to help a person breathe more easily can cost at least $30,000.

The Libby dust, or fiber, is also unique. The Libby fiber is especially vicious. It is made up of what is called tremolite, a special kind of asbestos, and other similar fibers, fibers that doctors and scientists are now only beginning to realize are more deadly than ordinary asbestos.

Not only is it more likely to cause asbestos-related diseases, it often causes disease to progress more rapidly than traditional asbestos-related disease. Libby asbestos disease also looks different. It is hard to identify and hard to detect on x rays and CAT scans, much harder than traditional asbestos-related disease. That is why I was so concerned about Libby at the beginning of this debate.

Because Libby is unique in terms of the type and duration of asbestos exposure, the manner in which asbestos disease manifests itself in Libby, and the fact that an entire community was affected, it was clear that the medical and exposure criteria in the bill would unfairly exclude most of the population of Libby. That would pile injustice on top of injustice on these people, and I could not accept that.

Senators HATCH and LEAHY worked very closely with me and my staff, and I want to thank them for the very important provisions in the bill that would exempt people in Libby from both the exposure and the medical criteria in S. 2290. This was a huge step forward.

However, as we moved past these larger issues for the Libby victims, new concerns arose about the level of compensation that would be awarded to a Libby claimant. I was concerned that the administrator of the trust had absolute discretion to determine that a panel of medical experts was wrong, and that a Libby claimant was not that sick and was not entitled to the level of compensation they truly deserved.

I was also concerned that the compensation levels were tied directly to the medical criteria in the bill, medical criteria that we had already determined just would not work for the Libby victims. This raised the possibility that the Libby victims would not be fairly compensated.

Senator HATCH and I have spoken about this concern and we have tried to work out an acceptable way to address it. Again, I thank Senator HATCH for the concern he has always shown for my constituents and I thank him for the effort he has undertaken.

However, this important concern has yet to be addressed in S. 2290. I have heard from people in Libby that they would rather we not proceed to this bill until we find a way to solve this outstanding uncertainty in the bill. I know they also share some of the concerns of my colleagues about other factors of the bill and whether it will indeed be workable and solvent over the long term. This is obviously important to me and to the people of Libby.

I believe that asbestos legislation is very important. I believe that Congress should complete work on an asbestos bill this year. It is important to the victims, many of whom are not being fairly compensated because the system is overloaded and so many companies have filed for bankruptcy. That is one of the reasons I will continue to work hard to protect Libby in asbestos legislation.

The people of Libby face a very uncertain future right now, depending on what happens with the Grace bankruptcy proceedings. I believe that if we get the Libby provisions right in the asbestos bill, they stand a far better chance of receiving fair compensation under an asbestos trust than they would through the Grace bankruptcy.

A bill is also immensely important to the business community that is seeking some level of certainty about what their future asbestos liabilities will be. Providing them with that business certainty, while at the same time providing the victims with equal certainty that they will be fairly and promptly compensated for their asbestos exposure and disease, should be our goal.

We are very close to achieving that goal, thanks to the efforts of many different players in this debate. Let's go back to the negotiating table and see how far we can get before we take this very complex bill to the floor for amendment and debate, a process that will not allow us to be as considerate and thoughtful as we should be with this issue.

For the sake of the people of Libby, and ensuring that they receive the highest degree of justice and certainty that they deserve, I must oppose the motion to invoke cloture on the motion to proceed to S. 2290. I pledge to continue to work together with my colleagues to find an acceptable compromise as soon as possible. I also state, if we can work out this Libby language, then I will be for the bill. I very much hope that happens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. CARPER. Mr. President and my colleagues, in a few minutes we will vote on whether to proceed to debating and amending this legislation on asbestos. It is an important issue and an important vote.

Before I say anything else, I wish to express my thanks to Senator HATCH and Senator LEAHY and others on the Judiciary Committee who have worked on this issue for years. I express our thanks for trying to help us narrow our differences. I think they have been narrowed.

I spent a good part of the 2 years myself learning about this issue and coming up to speed on it so I might be able to participate in a constructive way. I have certainly learned a lot and hopefully made at least a modest contribution.

As we have tried to develop consensus on this issue, I think there are about four basic principles that we can agree on and ought to agree on.

One is that when people are sick and dying from exposure to asbestos, they ought to get the money they and their families need and they should get it now.

When people become sick later on from an earlier exposure, they should receive reasonable compensation and it should come promptly.

People who are not sick, who may have had an exposure to asbestos and may not become sick, they should have medical monitoring at no cost but they should not be siphoning off the moneys from folks who truly are sick and are in desperate straits.

Finally, the last principle is we ought to reduce the transaction costs, essentially the legal costs, that are involved in this whole process.

Those are four basic principles. My guess is if we could vote on those principles, we would all vote for them. We are not ready to vote yet on bringing this bill to the floor. I say that with some reluctance.

I have these four core values. The Presiding Officer and I talked about core values before. One of my core values is just never give up. I have another way of saying that. I say sometimes: ''No'' means ''find another way.'' The ''no'' vote I am going to cast—in the ''no'' votes that are going to be cast, I want to be clear what ''no'' means.

First, I will say what it doesn't mean. ''No'' doesn't mean let's give up. ''No'' doesn't mean this bill is dead in this session. So it doesn't mean that asbestos legislation is dead for all time.

This is what ''no'' means. ''No'' means let's build on the work that has been done, the good work that has been done within the Judiciary Committee. ''No'' means let's build on the good work that has been done in the so-called Specter-Becker process, involving retired Federal Judge Becker. Let's build on that.

There are a number of important issues that still have to be resolved. This is not a bill to write on the floor. I think among the issues we agree on is that this is complex stuff. I know it is for me and for a lot of our colleagues. This is not a bill to be written on the floor, and there is still too much that needs to be written for us to take the bill up today. There is a process taking place that yesterday, my leader, Senator DASCHLE, and the Republican leader, Senator FRIST, have bought into. I have urged them both for some time to build on the Specter-Becker process, which has focused mostly on administrative issues and with some real success, but to build on that process, given the kind of role Judge Becker has come to play as a mediator, one trusted by labor, by the trial bar, by the insurers, by the manufacturers, and by many of the defendants in these legal cases.

This is not something we ought to start doing next month or maybe in June or July. This is work that needs to continue today, tomorrow, next week, and in the weeks that follow.

There is an old saying that work fills up the time that we allocate to do a particular job. If we say we will take a year to do something, we will take a year to do it. In this instance, we need to keep our focus and our energy concentrated on resolving most of the outstanding issues. I don't think the Specter-Becker process will resolve all of the outstanding issues, but I think it will get us a lot closer to resolution to enable us, on the floor, to then finally debate, amend the bill, and send something good, something solid to the House of Representatives.

Let me close by saying there is too much at stake.

By the way, Judge Becker said he has cleared his schedule starting next week, next Monday. He was here several days this week. He addressed our caucus yesterday. He met with leaders on both sides and talked to any number of our colleagues. He met with manufacturers, insurers here, organized labor, the trial bar, just this week in this building. We need to not let one bit of our momentum on this issue go away with a ''no'' vote today. What we have to do is build on that momentum.

Let me close by saying there is too much at stake for us not to do just that. There are too many people who are sick. They are counting on us doing something about it and helping them now. Too many companies have gone bankrupt. Some 70 companies have gone bankrupt. I understand some 70,000 people have lost their jobs.

That doesn't even begin to say how much people who were working for those companies that have gone bankrupt have lost in their 402(k) plans. They have lost it all. How about the common stockholders? They have lost everything because the company went bankrupt. There is a great need there.

Finally, the other thing at stake is the loss of manufacturing jobs. We have seen an erosion of over 2 million jobs in this country over the last 3 years. That is a lot of manufacturing jobs. One of the reasons is because of the legal problems we have in this country. We have lost our sense of balance. We can do better, and we need to.

What does ''no'' mean? No means get to work and let us resolve these issues. Before we break for Memorial Day, I hope we can bring this bill to the floor and vote yes. Let us get it done.

Mrs. BOXER. Mr. President, I am voting against cloture on S. 2290 because I do not believe that it is fair to asbestos victims or meets their needs for compensation adequately.

Asbestos kills 10,000 Americans every year. For more than 50 years, manufacturing companies, asbestos producers, and insurance companies ignored evidence of the threat of asbestos to their employees and their families, as well as the public. They failed to warn their workers and must be held responsible for thousands of deaths and thousands made ill.

Asbestos victims are people not statistics. Bill and Geneva Hornsby from Fontana, CA are not a statistic. Geneva was diagnosed with lung cancer in 1998. It was caused by asbestos that her husband brought home from work on his clothes. Then, in March 2003, her husband Bill was diagnosed with malignant mesothelioma. Again, it was cause by exposure to asbestos at work. Three weeks after the diagnosis, Bill died.

Angela Ruhl from Long Beach, CA, is not a statistic. She was exposed to asbestos through the work clothes of her uncle who worked in the Navy. Now she has peritoneal mesothelioma. She has undergone three surgeries and two rounds of chemotherapy. She deserves justice.

Sam Silvestro from San Mateo, CA, is not a statistic. He was exposed to asbestos for decades, diagnosed with malignant pleural mesothelioma in June 2001, and died in November of that year. His wife Doris still lives in San Mateo.

The issue is not whether we do something or nothing. Most Democrats, if not all, could support an asbestos resolution fund that was fair to victims. But this proposal is not fair.

First, the funding proposed in this legislation is inadequate. The FAIR Act provides $29 billion less in funding than the bill that was approved by the Judiciary Committee.

Also, the FAIR Act would delay for years compensating victims with terminal cancer, mesothelioma, and other asbestos diseases. That is because while asbestos companies would be required to pay $2.5 billion annually into the fund, the fund will immediately be hit with 450,000 claims representing a cost to the fund of $54 billion in its initial years. That means victims with claims today will have to wait until the fund acquires enough contributions to compensate them.

This legislation also creates a windfall for large corporations. Many companies that failed their workers and owe asbestos victims under settlement agreements would have those agreements suspended and the settlements voided under this bill. Halliburton, for example, would pay only a small fraction of the billions of dollars it has already agreed to pay asbestos victims.

And, most important, the compensation for victims proposed in this legislation is inadequate. Even the sickest victims—those with mesothelioma and other fatal cancers—would receive less compensation under this bill than under the current system. And the tens of thousands of people with non-fatal diseases caused by asbestos, such as permanent repressive lung damage, would receive wholly inadequate assistance.

For these and other reasons, we need to go back to the table and negotiate a bill that would really be fair to victims.

Mr. CRAIG. Mr. President, I rise today to speak to S. 2290, the Fairness in Asbestos Injury Resolution Act of 2004, or the FAIR Act. Last July, I voted to pass S. 1125, the original asbestos litigation reform bill, out of the Senate Judiciary Committee in an effort to fix the Nation's broken asbestos litigation system. And indeed it is broken.

There have been too many losers under the current tort system. Claimants who are not sick receive disproportionate jury awards, severely sick claimants have been made to wait too long for compensation, companies are going bankrupt, jobs are being lost, and attorneys' fees are cutting away at nearly half of all money spent on asbestos-related litigation.

More than 60 defendant corporations have declared bankruptcy due to asbestos-related litigation, leading to the direct loss of as many as 60,000 jobs, with each displaced worker losing an average of $25,000 to $50,000 in wages.

Indeed, the system is broken.

The constituents from my home State of Idaho have written to me asking me to fix the asbestos problem. The United States Supreme Court has called upon Congress to resolve the asbestos litigation crisis. And today, Senators HATCH, FRIST, and others are calling upon the Senate to pass S. 2290 with the same purpose in mind.

I commend these Senators for their work on this issue, especially Senator HATCH, the chairman of the Judiciary Committee, who, through study, compromise, and countless hours of negotiations, produced a 250-page bill to resolve the asbestos litigation crisis. The actions of the Senator from Utah, from the beginning, truly have been those of a statesman.

However, these good-faith efforts have not been matched by those on the other side of the aisle.

In the original asbestos litigation reform bill, the trust fund was to be administered by the Court of Federal Claims, a special court relatively removed from the political realm. However, Democrats and labor unions wanted the fund to be administered by the Department of Labor, which has the potential to keep Congress and the American taxpayer on the political hook of paying for claims that cannot be paid by the asbestos trust fund. They wanted it, and we gave it to them.

In the original asbestos bill, those on the other side of the aisle wanted to increase the price tag of the bill by raising the levels of compensation for asbestos claims. They wanted it, and before passing the bill out of committee, we gave it to them. During negotiations over S. 2290, they wanted new levels of payouts even higher than those agreed to in committee. Accordingly, half of the award levels have been increased by an average of more than 20 percent in S. 2290. They wanted it, and we gave it to them.

In the ''Additional Views'' to the committee report on S. 1125, I and several fellow Republican colleagues voiced concern over the bill's unscientific medical criteria. In fact, in addition to several financial experts' testimony about the unpredictability of future claims into the fund, Dr. James Crapo, a hearing witness and medical expert who specializes in asbestos-related disease, wrote that:

> the other categories compensated by the bill . . . pay compensation for illnesses that, according to the clear weight of medical evidence, either are not caused by asbestos or do not result in a significant impairment. Simply put, when medical research concludes that a condition is not caused by asbestos, or is not an illness at all, medical research will not be able to predict the number of such claims.

Despite these deep reservations, and in response to Democrats' demands, we agreed to criteria that ''erred on the side of being over-inclusive'' with regards to asbestos-related diseases. Many financial and medical experts suggested that as a result of doing so, the fund is likely to run the risk of insolvency as a result of paying claims for illnesses not caused by asbestos. They wanted it, and we gave it to them.

They wanted it, and we gave it to them. Yet, they still withhold their support from S. 2290. As a result, not only has the integrity of the bipartisan negotiations been compromised, but the integrity of the asbestos litigation reform bill itself.

Though no asbestos bill will be perfect, any reform measure in passable form will provide the certainty needed by all involved parties: businesses will know the amount of their liability and will be able to adjust accordingly in order to prevent bankruptcy, and, most importantly, injured workers will be adequately compensated by the companies that caused them injury.

However, the certainty I held hope in only a few months back has largely been replaced by skepticism—skepticism in the solvency of the asbestos trust fund, skepticism in the handling of asbestos claims by the Department of Labor, and skepticism in the integrity of the medical criteria.

However, my hope resides in further consideration and debate of the bill. The time for fair and efficient resolution of the asbestos litigation crisis is now, and I will vote for the cloture motion before the Senate.

I look forward to any amendments that will strengthen the solvency of the bill by making defendant companies—not taxpayers—fiscally responsible for their actions, amendments that will restore integrity to the medical criteria section of the bill, and any others that restore S. 2290 to its principled purpose.

Whatever a Senator's position on the bill may be, the issue of asbestos litigation reform must be considered and debated. Let us not sit this one out. This one is too important to sit out.

Mr. KOHL. Mr. President, I rise to discuss S. 2290, the newest version of the asbestos bill. Like many of my colleagues, we want to support an asbestos bill that ensures that sick people get compensated quickly. The current system is broken, leaving terminally ill victims to spend years waiting for compensation. Congress must act to solve this problem, but it must do so in a bipartisan fashion. I fear that will not happen this week, even though we want to remain optimistic that there is still a chance for this legislation.

That said, over the past year we have made more progress than many of us would have thought. But now we are at an impasse. What is most frustrating is that the remaining issues are not irreconcilable. Let's discuss a few of the major outstanding issues that must be resolved in order to broker a compromise.

First, more than any other issue, the size of the fund is preventing progress on this bill. We appear unable to negotiate, or have yet to negotiate what this number should be. To be sure, this is a complicated issue and it is especially important to get it right if we want to adequately compensate asbestos victims for the next 50 years. There is just not enough money to cover all the claims that will be made against this fund. As a result, some of us have serious concerns that this bill fails to go far enough to compensate asbestos victims suffering serious disease.

Though the base funding in the new bill is roughly the same as S. 1125, $104 billion, the overall funding falls far short because the new version eliminates a contingency amendment I introduced with Senator FEINSTEIN last summer in the committee. Our amendment would have provided up to an additional $45 billion over the life of the fund. The new Frist-Hatch version replaces it with a $10 billion contingency a source of funding which could not even be tapped until year 24 of the fund.

Second, in order to reach a better understanding of how much this bill will

cost, we must better come to a final agreement on the individual awards that will be granted victims. Quite simply, this agreement will drive the overall cost of the fund, and not surprisingly, projections vary on this point. Proponents of the new bill predict that there will be $114 billion in total claims. The Congressional Budget Office, however, estimates that, based on the new award values present in S. 2290, the fund will need $134 billion to pay out all current and future claims. And labor believes that the number will be even greater if we were to raise award values to a more equitable level. Of course, any increase in award values will require a increase in the overall fund amount. But these are exactly the sort of tough choices and negotiations that need to take place if we are going to find a compromise.

Third, those of us opposed to this bill still feel that an unfair risk falls onto the victims if the fund goes bankrupt. Those in favor of the bill will argue that if they underestimate how much money the fund will need, victims can simply return to the court system. But it is not as simple at that. At the earliest, victims cannot return to the courts until year seven and there is a real risk that certain types of victims may be precluded from any further compensation for new injuries related to asbestos exposure.

Furthermore, the new version of the asbestos bill also results in unfair treatment of victims with pending claims. There are currently more than 300,000 asbestos victims with pending claims in the court system, many who have been waiting for years for a court date or settlement. The asbestos bill would eliminate most pending claims and even final settlements and throw them into the fund. So some victims who won a large verdict will be forced to start over from scratch in the fund. This hardly seems fair.

Finally, it is difficult to support a new bill that is the product of a flawed and one-sided negotiating process. Much of the new asbestos bill we are considering was negotiated by Senators FRIST and HATCH with business and insurance representatives. This process, lacking any participation from Democrats or labor, resulted in a bill that is not even as good as the version we opposed last July. To be fair, Senator SPECTER has been working hard in a bipartisan group mediated by retired Federal Judge Becker. The group has had some modest success in negotiating ''non-economic'' issues, but has yet to broker any deal on award values or overall fund financing. Perhaps a consensus solution is possible if we allow that bipartisan process to proceed.

Until then, I cannot support this bill in its current form. The new asbestos bill actually retreats from the progress made last summer in the Judiciary Committee. Until my major concerns regarding the overall dollar amount for the fund—an amount that will adequately satisfy the hundreds of thousands of asbestos victims for years to come—is resolved, I will vote against S. 2290. To be sure, there are several other issues to solve in this bill, but we must reach a consensus on an overall dollar amount, lest we regret supporting a fund that runs out of money, fails to compensate victims, and provides businesses no more certainty than they have today.

Mr. ALLEN. Mr. President, I rise today in support of the Fairness in Asbestos Injury Resolution Act or the FAIR Act.

Over the past decade, asbestos-related lawsuits have increased dramatically and have shown no sign of lessening. According to reports, at least 730,000 claimants have sued more than 8,400 defendant companies alleging some kind of injury by asbestos exposure. The number of defendant companies that have been sued has increased by 8,100 since 1983 according to the RAND Institute for Civil Justice.

There is no doubt that the current asbestos litigation system is a failure. The system is harmful on two fronts: it is harmful to the economy and harmful to the asbestos victims, who currently wait years for their cases to be resolved. Sadly, some of these victims die before even having their day in court.

I view this measure as a jobs bill. Some would ask: How is this legislation going to help create jobs? I would answer that while we are steadily recovering from an economic downturn exacerbated by the terrorist attacks of September 11, 2001, and our necessary response in the war on terrorism, we need to make sure that willing men and women can find jobs. Employment is improving. However, if the Senate does not act on this important reform legislation, the numbers of unemployed Americans will increase.

The fact is that asbestos-related bankruptcies inflict a staggering toll on the American workforce. Companies that have declared bankruptcy because of asbestos-related litigation employed more than 200,000 workers before their bankruptcies. So far, asbestos-related bankruptcies have led to the direct loss of as many as 60,000 jobs, while each displaced worker will lose an average of $25,000 to $50,000 in wages over his or her career, according to Joseph Stiglitz, cowinner of the 2001 Noble Prize in Economics.

One economic study by the Financial Institutions for Asbestos Reform found that, considering the multiplying effect of private investment, failure to enact asbestos legislation could reduce economic growth by $2.4 billion per year, costing more than 30,000 jobs annually. Extended over a 27-year time frame, this would translate into the loss of more 800,000 jobs and $64 billion in economic growth. And RAND concluded that 423,000 new jobs will not be created due to asbestos litigation, and $33 billion in capital investment will not be made.

My colleagues on the other side of the aisle preach the need for job growth and argue that Republicans are not doing enough to spur the economy and preserve and create jobs. This bill helps preserve jobs. But unfortunately, if we continue to allow this dysfunctional system to exist and let partisan politics run rampant, we will see a major dilemma in the American workplace—thousands of Virginians and Americans unemployed.

In addition, a failure to resolve this situation will have an adverse effect on employee pensions and retirements. Each worker who loses their job from an asbestos bankruptcy loses on average at least 25 percent of the value of their 401(k) retirement accounts. Thus, a failure to act will not only lead to job loss, but could hamper their long-term financial well-being. Furthermore, individuals use their pensions and 401(ks) for a number of things. An individual may use it to retire, to pay for their children's college education or for incurred health expenses as they grow older.

Unfortunately, the crisis does not stop there. Opponents seem to forget that many victims are unable to receive just compensation because the courts have been burdened by the sheer volume of cases—legitimate and less meritorious alike. They have been unable to ensure that even a majority of asbestos compensation goes to plaintiffs who are actually injured.

Shipyard workers and Navy veterans from my Commonwealth of Virginia should not have to suffer in the current system. The RAND study that I referenced earlier found that the vast majority of new claims—approximately 90 percent—are made by people who do not have any sort of cancer or mesothelioma. These individuals prevent the claims of those who are truly ill from being heard and given their day in court and zap the limited resources available to compensate true victims now and in the future.

This bill will provide some consistency in the settlements that are awarded to victims. Far too often, the awards are unfair, inconsistent, and erratic. Currently, victims can only expect to see 43 cents of every dollar in compensation awarded. The rest of the money goes to lawyers and administrative costs.

The FAIR Act seeks to remedy this injustice. This legislation will make sure that victims receive immediate compensation in full. By capping the litigation costs, we are making sure that awards are going into the bank accounts of the truly injured, rather than legal fees for companies and claimants.

As the Chicago Tribune said in September 2002, ''Today's dysfunctional system benefits primarily trial lawyers and healthy plaintiffs—and that drains resources from those who are sick and dying because of asbestos. That's a national shame.'' The Fairness in Asbestos Injury Resolution Act is a long overdue attempt to correct that terrible wrong.

So what does this bill do? In short, the FAIR Act would establish a privately funded trust fund composed of mandatory contributions from current corporate defendants and their insurers as well as moneys from existing bankruptcy trusts. Plaintiffs who believe they have been injured by asbestos exposure would submit claims to the administrator of the trust fund with evidence that they were exposed to asbestos for a period of time sufficient to cause their medical condition. Qualified claimants would be paid a clear compensation depending on eligibility and disease type on a no-fault basis. Properly administered, the trust fund will ensure that nearly all defendants' and insurers' asbestos expenditures end up in the hands of injured claimants. And by paying fixed generous award amounts depending on the severity of the disease, the FAIR Act would ensure that the truly impaired are compensated.

I urge my colleagues to move to consider this bill. Too many jobs are being lost in bankrupted companies while Virginians and Americans with asbestos-related diseases receive inadequate compensation. The principal point is that action and leadership has been needed for years. There is no reason to procrastinate and avoid responsibility to remedy this current dysfunctional, failed situation. The FAIR Act is a reasonable, responsible way to move forward jobs and equity; to filibuster and block this bill is an avoidance of responsibility.

Mr. FEINGOLD. Mr. President, I want to speak today on S. 2290, the revised, but still misnamed, Fairness in Asbestos Injury Resolution Act. Reluctantly, I will oppose the motion to proceed to this bill.

I say ''reluctantly'' because I support the concept of a national trust fund to compensate victims of asbestos-related diseases and address the severe strain that cases brought by those victims have placed on our legal system and our economy. Ten thousand Americans now die each year—a rate approaching 30 deaths per day—from diseases caused by asbestos. My home State of Wisconsin ranks 16th in the Nation in asbestos-related deaths.

I was encouraged when the defendant companies in some of the many lawsuits that have been filed, their insurers, and organized labor began serious negotiations back in 2002 to try to develop legislation for a national trust fund that the Congress could enact on a consensus basis to address this serious problem. This was an issue that called out for a bipartisan solution.

Unfortunately, those discussions were short-circuited before an agreement could be reached. What began then was a process that has turned the asbestos issue into a partisan issue when it really shouldn't be. A bill very much slanted toward the defendants and insurers was introduced last spring by the chairman of the Judiciary Committee. Although I disagreed with the chairman's decision to call a halt to negotiations, I do give him credit for at least allowing the Judiciary Committee to work on the bill, in contrast to the process that was followed on the series of ill-advised medical malpractice bills that have been brought directly to the floor during this Congress. The Judiciary Committee held a hearing and then an extraordinary four meetings to mark up the bill. Two dozen amendments were debated and voted on.

The bill that emerged in July 2003 after that intensive work by the committee still did not win my support. But all of the committee members who voted against it agreed that it was much improved over the original bill. The committee's work could have been the foundation for further bipartisan negotiation that might have led, if all parties were willing to come to the table and compromise, to a bill that could be overwhelmingly approved by the Senate.

So what happened over the last 10 months? Well, the first thing that happened is that the insurers went to the Republican leadership and said they couldn't live with even the limited improvements that the committee approved. So no sooner had an amended bill come out of committee then its supporters started backing away. Instead of trying to make the bill reported out of the Judiciary Committee more acceptable to victims of asbestos in a serious effort to solve what we all agree is a difficult and important problem, the proponents of this legislation went backward.

And so in many respects the bill that the Senate is being asked to take up is worse than the committee bill. Important amendments adopted in committee that provide some certainty that money will be available to future victims of the horrible diseases caused by asbestos, and we know with certainty that there will be thousands of such victims, were removed by the sponsors of S. 2290. By what definition does that represent ''fairness''?

Let me talk for a minute about some of the specific provisions that have led me to conclude that I cannot in good conscience vote to proceed to this bill.

The first issue is money. CBO estimates that between $124 billion and $136 billion will be needed to pay an expected 1.7 billion asbestos claims over the 27-year life of the fund. Some experts think that estimate might be too low. S. 2290 provides for a maximum of only $114 billion for the fund. The bill reported from the committee, as a result of amendments offered in committee by Senators FEINSTEIN and KOHL, included total funding of $154 billion. How can it be fair for a compensation fund to be doomed to failure from the start because it is underfunded?

Another issue is related to the issue of the adequacy of the fund. Senator BIDEN offered an amendment that was approved by an overwhelming bipartisan majority of the committee. It basically said to people who have claims that if the fund isn't adequately funded they will not be left empty-handed. It called for a return to the tort system for claimants who do not receive the payments that the bill calls for. S. 2290 substitutes a much weaker sunset amendment that would leave victims waiting for years and years without compensation before they are permitted to again pursue their claims in court. How is that fair?

I am concerned in addition that this bill treats certain companies such as Halliburton very favorably by capping their liability to the fund at a fraction of what they have already set aside to pay claims to asbestos victims. These companies have already agreed to settle claims against them and agreed to pay billions of dollars in compensation. Those settlements have been on hold as Congress considers this legislation and if it passes, the companies will save literally billions of dollars that they otherwise were prepared to pay to asbestos victims. How is that fair?

I am also very concerned that this bill would overturn longstanding settlements under which some victims have been receiving regular payments for years. How can it be fair to people who have settled their claims already, or who have even received jury verdicts in their favor that are now on appeal, to have to start over in an administrative process that could take years to get up and running and years to complete? An amendment offered by Senator FEINSTEIN in committee would have postponed the effective date of the bill until the fund was up and running. That would have allowed at least some far-advanced cases to proceed to final judgment. The deletion of the Feinstein amendment is another step backward taken by the sponsors of this bill.

We have an asbestos crisis not only because lawsuits are threatening the financial well being of American companies but because people are getting sick and dying. Some companies knew that exposure to asbestos caused asbestosis, a tragic lung disease, as early as 1918. In 1966, the Director of Purchasing for Bendix Corporation, now a part of Honeywell, stated in an internal memo '' . . . if you have enjoyed a good life while working with asbestos products, why not die from it.'' There are countless other industry documents that have been uncovered to show that the industry knew it was endangering its workers' health by continuing to use asbestos. A 1958 National Gypsum Memo, for example, stated: ''Because just as certain as death and taxes is the fact that if you inhale asbestos dust you get asbestosis.''

We need to make sure that any national solution to the asbestos litigation issue keeps faith with people who have been injured by this dangerous product. And we now know that the problem is not limited to people who worked with asbestos. It is also the families of the men and women who

worked with asbestos who have contracted asbestos-related diseases. Even consumers who used hair dryers, electric blankets, attic insulation, home siding and ceiling and floor tiles have suffered injury from asbestos exposure. These victims need compensation, and this hazardous substance needs to be banned once and for all.

We all want to see a resolution to this crisis, we want these victims to get the compensation they deserve. That is why I am so disappointed in the final version of this bill. Instead of working toward a negotiated solution that the whole Senate can support, the sponsors of this bill have assured its failure by going backward. Again I ask, how is that fair? Reluctantly, I will vote against the motion to proceed, and I hope the message that comes from the failure of this bill is not that no solution to the asbestos problem is possible, but rather that the only way to reach a solution is to involve all the interested parties, and Senators from both sides of the aisle, and try to arrive at a truly fair bill.

Ms. MIKULSKI. Mr. President, I rise today to oppose S. 2290, the so-called ''FAIR Act.'' I oppose this bill because it is anything but fair to victims of asbestos exposure. This bill puts the interests of insurance companies and industry before those who are sick and often dying because of asbestos exposure. How can we call a bill fair—when it makes those who suffer as a result of asbestos exposure worse off and further delays their compensation. We need a balanced and fair approach to asbestos reform that will have bipartisan support. Democrats want it, business wants it, labor wants it and many of our friends on the other side of the aisle want it. Unfortunately, the FAIR Act is not it.

Even the process by which this bill came to the floor is not fair. This is not the bill that came out of the Judiciary Committee, its not the product of the negotiations that Senators SPECTER, LEAHY, DASCHLE and others have been pursuing, it is not a bill that has had any input from Democrats. Senators FRIST and HATCH decided what should be in the bill and put it on the floor. They skirted the usual Senate process and introduced a partisan bill.

This bill is not fair.

Is it fair that those who are seriously ill as a result of asbestos related illnesses would receive far less on average under this bill than they would in our court system?

Is it fair that victims who are suffering from lung cancer may only receive $25,000 when they were exposed to asbestos for 15 years and will likely die within a few years of diagnosis?

Is it fair that businesses will only put $109 billion into the fund when conservative estimates expect the fund's claims to reach at least $134 billion?

Is it fair that victims will be left with no recourse if, as many expect, the fund runs out of money and those who are sick are forced to wait years more for compensation?

And I ask you, is it fair that those who have already spent years in the court system will have their settlements and judgments wiped out and have to wait years more for compensation under the new system? These defects are simply unacceptable in a bill that is supposed to solve the asbestos nightmare and get victims real relief now.

None of these provisions is fair to the workers, mechanics, miners, and family members who have been exposed to asbestos and are now suffering from disease. These are the people who are relying on the Congress for help so they can spend their last days enjoying their families and loved ones and not litigating their claims. The U.S. Senate can do better than getting caught up in a political game when people's lives are at stake.

This legislation has three major flaws—it gives victims far too little, forces victims into a fund that has too few resources, and closes the courthouse door for victims of asbestos exposure.

Too many victims receive far too little under this bill. This new Frist/Hatch bill may have increased the awards for some victims over previous version of the bill, but it still leaves many of the most seriously ill victims with awards far below what they would receive if they went to court. For example, overall awards in this bill are far lower than what victims would receive in court. And to top it all off victims could see their awards reduced even further because of workers' compensation or insurers' liens, which this bill allows. That's not fair.

This bill forces victims out of the courts and into a fund that may run out of money. The level of funding under this Frist/Hatch bill is well below what even conservative estimates put as the likely cost of the fund. How can we ask all these victims to give up their right to go to court and then put them in a fund that will run out of money? They will be left holding the bag and waiting years more to get relief. Certainly business can do more for the trust fund in exchange for a reprieve from their litigation liability.

I am not only worried about the fund running out of money in the long term—but also up front. Over 300,000 cases are currently pending and it is expected that 90,000 additional cases will be filed each year of the first few years of the trust. Under this bill there simply is not enough funding in the early years to cover those costs. So what happens? Victims again are left waiting, as they have been in the tort system, for years for some compensation and sadly many of them will die before they ever see a cent.

This legislation shuts the courthouse door for victims. Many victims of asbestos exposure have already spent years in court and have received a settlement or judgment. The Frist/Hatch bill wipes out all pending claims, including those where a settlement has been reached or where a judge or jury has reached a judgment. These victims have spent years and often most of their resources litigating these cases. Now Congress wants to come in and say ''Sorry, you have to file your claim again and wait for the fund to get your relief.'' That undermines the civil justice system, the faith we put in judges and juries and is simply not fair to victims who have been waiting years.

Senator FEINSTEIN had offered an amendment to the original bill in Committee that helped take care of part of this problem. It was based on a simple idea—victims have waited long enough and they ought to be allowed to pursue their claims while the fund was getting off the ground. But the Frist/Hatch bill gets rid of that provision and makes victims wait. Wait till the money is in the fund, wait till the administrative system is set up, wait till Administrators are appointed and then wait some more. It might take years to get the fund off the ground and until then victims have no where to go to pursue their claims.

I, like my colleagues, wanted a to be able to vote for legislation that would help victims, that would make sure they got the compensation they deserve and would also ensure that problems with the current legal system were addressed. But this bill is the wrong vehicle—it actually rolls back the progress that was made in the Senate Judiciary Committee and through months of negotiations between labor, business and insurance.

I know that Senators DASCHLE, LEAHY, DODD, FEINSTEIN and others have been working tirelessly with those on the other side of the aisle and with industry, insurance and labor to create a consensus bill. I have supported those efforts and am disappointed that Senator FRIST introduced this bill which sends us in exactly the opposite direction. It sends us away from common ground and negotiated positions to a strongly partisan bill that does not reflect any of those efforts. I think we should go back to the table, to finish the conversations, to reach a balanced agreement that the majority of us can support.

We need to protect those who have been exposed and are suffering from asbestos related diseases by putting sufficient amounts in the trust fund, by making sure that compensation levels are fair and awards are dispensed quickly, by ensuring that the fund is solvent and provides victims with the ability to go back to court if the system runs out of money. We also need to make sure that those who are in court can continue their cases until the fund is set up and that those who have reached a settlement or received a judgment can get the remedy their litigation has entitled them to.

I stand with my Democratic colleagues in saying ''we want a bill.'' I want a bill that helps victims get just

compensation, and that provides financial certainty for industry and insurers. But that cannot come at the cost of the rights and remedies for those who are and will become seriously ill as a result of asbestos exposure.

Mrs. LINCOLN. Mr. President, I voted against the cloture motion to S. 2290 because I did not believe this bill was ready to be debated on the Senate floor. Unfortunately, the process that created this bill did not give stakeholders an adequate opportunity to fully discuss and debate honest differences. As a result, significant issues remain that can and should be addressed before proceeding to consideration on the floor. I am confident, however, these issues can be resolved if the interested parties will come to the table and work in good faith until a compromise can be reached. In my conversations with asbestos victims, industry officials, and labor leaders a common thread has emerged; we are too close to walk away now.

I have consistently expressed support for a legislative solution to the asbestos crisis that would establish a trust fund to pay legitimate claims in a fair and efficient manner. However, if we ask American citizens to give up their right to a day in court, we must ensure they will be treated equitably by the alternative. Further, we must ensure that the trust fund remains solvent and efficient. We also must make certain that the fund will be up and running as quickly as possible.

All of the parties in this discussion have a vested interest in making the trust fund work. For the victims, many have waited far too long to receive the compensation they deserve in a timely and efficient manner. For the business community, they have agreed to commit a significant amount of money to this fund. It is in their best interest to make sure the fund works by paying victims a fair amount in a timely way to ensure they are not threatened by non-meritorious claims if this process returns to the courts

We can reach agreement on this vital legislation if all sides stay at the table. Legislation is rarely a work of art, it is a work in progress. We must continue to push forward until a solution is found.

Mr. HATCH. Mr. President, I have been listening to the arguments of my colleagues from the other side of the aisle.

I thank Senators CARPER, NELSON, MILLER, and BAUCUS, who indicated they will vote for this bill in the end if we can resolve some of the problems. These Senators in every sense have worked extraordinarily hard on this bill, especially Senator MILLER.

I believe we can accommodate Senator BAUCUS so he can literally vote for this bill. I do not want to see people from Montana be mistreated. Frankly, I believe we can make the appropriate change. We have talked about what it will be. It is what he has told me he would accept. I think we can make that change. But that is what you do on the floor of the Senate.

Having said that about these colleagues who have worked so hard with us, including Senator FEINSTEIN, who has worked with us on these matters, all of them are going to vote against cloture today, at least as far as I know.

Having said that, I was interested in the comments of the distinguished ranking member on the Judiciary Committee, that we have to get into reality here; reality the way the Senate is supposed to work, the way the legislative process works. After 15 months of meeting with everybody from one end of this country to the other, everybody in the Senate Judiciary Committee, and virtually everybody in the Senate, 15 months of intensive negotiations, where are we? In reality, they are filibustering even a motion to proceed which I think shows where this is all going. They are not filibustering the bill which would be next. They are filibustering the motion to even proceed to the bill. The reality is if we want to be legislators and we want to legislate, then we bring the bill up and we fight it out on the floor.

We have a filibuster here on the motion to proceed. We have had 15 months of negotiations. We have bent over backward to try to accommodate our colleagues on the other side of the aisle. There is virtually only one thing many of them want more of; that is, more money. That is after putting in the original $108 billion, which nobody thought we could get done; that almost everybody said if you get that we will go—virtually everybody involved, including the unions. We are now up to $114 billion, and it is still not enough. If that is not enough, then bring an amendment to the bill on the floor. Make it more, if you can.

The problem is I think they know the vast majority of Senators in this body know it is enough. They know it is probably too much and know what a burden it is going to be on these companies that are basically near bankruptcy to pay for this. But we have done that.

I heard the distinguished ranking member of the Judiciary Committee say we should be legislators. If the funds are enough, they would go. Bring amendments. Let us fight out. That is what we do. That is what this floor is for—not just filibustering a motion to proceed so we can't fight it out, so we can't have amendments. I think they should quit hiding behind outrageous figures everybody around here knows can't be done.

I believe my friend said one of the problems is solvency protection. How can you protect from insolvency, if these companies start going into bankruptcy? We have had 70 so far. We will have more loss of health benefits, loss of pensions, and loss of jobs.

By the way, on the award values, it is interesting to me that I am hearing it is not enough in award values to individual people and the individual categories, and yet the award values were approved by the Senate Judiciary Committee 14–3. Only two Democrats did not vote. All the other Democrats voted for the award values we have in this bill—every one of them. The only three members on our side who didn't vote for the award values said they felt they were too high. The Democrats all agreed they were decent award values.

If we are going to be legislators, let us be legislators. Let us not hide behind a filibuster of a motion to proceed.

There have been a lot of comments by my friend on the other side about the fairness and adequacy of the claim values. He said they are low. What he failed to mention today in his remarks is the Feinstein bipartisan claims values amendment was adopted by the committee 14–3. It was a bipartisan vote. The only three who voted against it were Republicans who thought the claims values we had were too high. All of the votes from the other side of the aisle were 100 percent for the claims values.

I am not sure why my friend from Vermont is now saying the claims values we have adopted in a bipartisan fashion—he was there last July—are now too low. It is amazing to me. It is typical of what we have gone through for 15 months trying to work this out. I think they may figure as long as they can keep this going, there will be more and more demands on these few companies that are now stuck after the main companies that caused the problem are all bankrupt. These companies, such as Monroe, which I mentioned earlier, are stuck having to try to win but the defense costs alone would eat them alive and put them into bankruptcy.

We can talk about this forever. We can negotiate forever. But if it means more and more money, bring amendments to the floor. Maybe they will win on it. I don't know. All I can do is show how exorbitant they are under the circumstances.

We still have a hedge factor in this matter. If for some reason there are not enough funds at the end of this process to pay off claims—and we believe not only there will be, but there will be more than enough funds—then this will revert back to the tort system again.

Nobody will want that to happen. Nobody will let that happen. But even if it does, then these voracious claims lawyers, these personal injury lawyers—about 10 percent or even less of the American Association of Trial Lawyers—will be able to do the same things we have just mentioned they have been doing in this matter.

I think everybody is protected. There is no question about it.

Why are we not going to invoke cloture here and kill this bill? Why aren't we going to have amendments to make this bill more pure, if we can? Why don't we have amendments to increase the funding, if that is what they think should occur? The fact is they don't

want to do it because they know darned well if they did, they probably couldn't win on these outrageous claims. But if they did, then the Senate will have worked its will. That is what legislators do. They don't hide behind filibustering every bill. They do not have obstruction tactics on every bill. Around here, we have to get 60 votes for virtually any bill that means anything. That is pretty pathetic. Sooner or later, we are going to have to address that. That includes judges for the first time in history.

But this bill is important. I acknowledge cloture will not be invoked today. I have known that for a long time. The fact of the matter is at least everybody is going to know where everybody stands on this matter. Does that mean we are going to quit negotiating and quit trying to bring people together? No. We will. But if we don't get that down in another week, it seems to me this bill is going to be dead. If it is dead, then I pity those 8,400 companies plus all the insurance companies—about 16 of those—because they are all headed toward bankruptcy and this country is going to suffer a tremendous problem while the truly sick are not going to get compensated. The truly sick are not going to get compensated. We have seen the sleazy approach of at least one of the personal injury law firms toward manipulating the process so those who aren't getting sick get a recovery which they should never have gotten. That takes money away from those who are sick. Guess who the beneficiaries of this whole process are. These personal injury lawyers, some of whom are honest, but probably some who are not.

This chart shows it all. The word ''filibuster'' comes from the Spanish word ''filibustero,'' meaning pirating and hijacking. I shudder to think we will consign all of these people who have asbestos-related illnesses to oblivion and not do the best we can to help them when we have a system that is broken.

I am prepared to yield back the remainder of my time and proceed to the vote.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 472, S. 2290, a bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

Bill Frist, Orrin Hatch, Gordon Smith, Lamar Alexander, Saxby Chambliss, Ted Stevens, Michael B. Enzi, Trent Lott, Kay Bailey Hutchison, Susan M. Collins, Pete Domenici, Rick Santorum, Jon Kyl, George Allen, George V. Voinovich, John Ensign, Wayne Allard.

The PRESIDING OFFICER. By unanimous consent, the call of the quorum is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 2290, the FAIR Act of 2004, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 47, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—50

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

NAYS—47

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

NOT VOTING—3

Campbell	Kerry	Specter

The PRESIDING OFFICER. On this vote, the ayes are 50, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. FRIST. Mr. President, I am disappointed that we did not invoke cloture on the asbestos reform bill. As I have said numerous times in recent days, this is an important issue, an issue we are not going to give up on. It is too important to the American people. It is an issue with victims, with veterans, with all people who are affected by asbestos. It would be a great disservice just to drop this issue; therefore, we are not going to drop it.

We have devoted now more than 300 days trying to work out the details of this bill, which I do believe is more than adequate time to reach consensus. Thus, later today, the Democratic leader and I—we have been in discussion over the course of the morning—will be discussing on the Senate floor a possible method of moving these discussions forward with the stakeholders over the next several days and possibly weeks. We will engage in a colloquy later in the day as to what that specific proposal will be.

I am confident we can make progress on this important issue, that we can move the stakeholders to a final agreement. I say that because people just saw the vote and that does not close the door in any way. In fact, it inspires us to work together more over the next several days and weeks.

For the information of Senators, next we will begin consideration of S. 2329, which is the victims' rights bill. It was introduced yesterday by Senators KYL, FEINSTEIN, and others. The order provides for up to 2 hours of debate before the vote on passage of that bill. That vote will likely be the last vote of this week.

Following the victims' rights bill, we will turn to, in the early part of next week, Monday, the Internet access tax bill. Discussions have been underway over the course of the morning and afternoon on that bill as to when we will actually begin consideration, and later this afternoon, I will have more to say about that bill.

As I believe I said this morning, following completion of the Internet tax bill, we will be turning to FSC/ETI, the JOBS bill. That is several days from now.

Mr. President, again, I am very disappointed in the cloture vote today, but we will be back, and I will talk more about that this afternoon.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to make a couple of comments about the asbestos bill. I see my colleague from Delaware. Does he want to say something before I make a short speech?

Mr. CARPER. Mr. President, yes, I want to mention to Senator FRIST, as I did to Senator DASCHLE in the last few minutes, my appreciation for the way each of them are, as leaders, engaging in a bipartisan way to address the asbestos issue as something we have to get done; we can do better than the status quo and take up the bill under the good work of the Judiciary Committee and the Specter-Becker process. There is a good process in place showing results, and I am delighted both Senator FRIST and Senator DASCHLE are embracing that process and enabling us to work together and resolve the remaining issues.

I mentioned when Senator FRIST was not here that work has a way of expanding to fill the amount of time we allocate to a project. Senator FRIST

knows that better than I do. If we say we are going to take the rest of the year to resolve the asbestos bill, it will take the rest of the year. There is value in setting a date certain. Senator FRIST may want to consider returning to this bill right before the Memorial Day recess. That gives us 3 weeks to buckle down, get the interested parties in a room together, and Senators who want to participate and their staff, along with Judge Becker, our leaders, and let's get this job done.

I thank the Senator for yielding.

Mr. FRIST. Mr. President, briefly in response, I understand the importance of setting dates and also of having a sense of urgency, since we do have victims who are suffering today. We will have more to say about overall timing when I have a colloquy with the Democratic leader a little bit later today.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that following the remarks of Senator NICKLES we proceed to consideration of the legislation which the leader announced so that Senator FEINSTEIN can commence her presentation and hopefully have her first presentation concluded before 1 o'clock.

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

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to make a few remarks concerning the asbestos legislation we failed to reach cloture on a motion to proceed. I am disappointed that we did not go to the legislation. I came down yesterday to speak and others were engaged. Maybe it is more appropriate that I speak now.

We have a very serious problem dealing with asbestos in this country. I held a hearing in the Budget Committee 2 years ago and stated that some of the biggest problems that we face, as far as our economy, is regulations and litigation abuse. And heading the list of litigation abuse in this country is asbestos litigation. We have 8,000 companies now listed as defendants in suits, and 60 or 70 companies have already gone bankrupt. Thousands of jobs have been lost. I believe over 60,000 jobs have been lost from the bankrupt companies that have gone out of business. Maybe another 100,000 jobs have not been created as a result of the negative impact that asbestos litigation has on the economy, and it is wrong. When we find out that two-thirds of the awards or settlement payments have been going out to people who are not sick, something is wrong. So this system needs to be fixed.

I also want to compliment Senator HATCH, Senator FRIST, and Senator SPECTER for their efforts. There has been a lot of work going into this legislation.

However, I have very serious problems with this particular legislation, S. 2290. In my opinion, a legislative solution that would propose creating a large federal trust fund is a mistake. I think there simply is a better way to do it. I asked the Congressional Budget Office to provide the Budget Committee analysis of the legislation, that we had before us, and the essence of its potential cost effects. I now ask to include their entire statement into the record. It states that CBO estimates operations of the fund would increase federal budget deficits by $13 billion over the first 10 years of the fund.

Thus, they estimate, that even though it will take in $118 billion of contributed funds over the life of trust, in the first 10 years it is going to add $13 billion to the deficit. Though the legislation says you can borrow against future anticipated revenues, it is still going to add to the deficit, and the Fund itself will become insolvent at some point because fund resources will be overwhelmed by anticipated claims liability. There are going to be major problems with this fund, too many problems.

As a matter of fact, I estimate that if we go with the trust fund approach there are going to be a lot of unqualified claimants saying, ''We want to be covered under this fund.'' We can expect that, unless there is very strict medical criteria enforced, and this bill does not have very strict medical criteria. By very strict medical criteria, I mean there should be legislation in place that requires claimants to prove that they have an asbestos-related disease before they are compensated by the fund. And this bill does not do that.

Also, I hope we would abandon the idea of creating a trust fund, under this legislation, that has a fixed, capped, amount that must be contributed into the fund by insurers and defendant companies involved, while the liability remains virtually unlimited. What one should easily see, is that the insurers are limited in what they must contribute and the defendant companies are limited in what they must contribute, but the extent of liability is unlimited. This should indicate to my colleagues that this Fund may not work. The claims may greatly exceed the fund, there is a shortage, and we end up with an insolvent fund.

The bill says, well, we presume if the fund goes insolvent, the fund will terminate from a Government-funded fund managed by the Department of Labor, and then claimants who did not get in on the money are going to simply seek redress in the federal courts. I question that. I can see people coming back to Congress and saying: ''Hey, we want the Federal Government to pay for it.'' This puts the taxpayer at risk.

So what is the solution? I am not trying to be critical. But, I think we should come up with realistic solutions. I have a couple of ideas I think we could do. One is to impose strict medical criteria in the existing tort system. The American Bar Association has said Congress should establish strict medical criteria in the tort system: in other words, a person must prove they have an asbestos related injury before they file a claim and get compensated. Let's make sure we are not paying payments to people who have lung cancer resulting from other causes, like a life-long smoking habit. My mother had lung cancer and my brother had cancer as a result of smoking. They should not be compensated out of an asbestos compensation fund. We should hold to the principle that if people are going to receive compensation from asbestos exposure they should have an asbestos-related disease; and they must prove it was the substantial contributing factor to the injury. If they prove it, they should be compensated.

We should also toll the statute of limitations for asbestos injuries to protect the legal rights of claimants who should develop a disease or impairment in the future. If they discover they have an asbestos-related disease in the distant future, the statute of limitations should not begin to run until that time. They would be able to file suit. That would eliminate a lot of these bogus claims and the mass action claims where people are filing claims saying, ''We think we could develop asbestos disease in the future, and we understand the statute of limitations is going to run out, so therefore we are going to file claims now.'' Over two-thirds of the claimants today do not have asbestos-related disease, but they are filing claims. Let's enact legislation to toll the statute of limitations, so if it is proven that 10 or 20 years from now an individual develops asbestos-related disease, and it is proven, they can be justly compensated.

Finally, let's eliminate the abusive venue shopping. Let's keep it in court jurisdiction where the claim belongs, and stop bargain-hunting plaintiffs from shopping their claims in only the most lucrative district or State courts in the country.

There does not have to be a new Federal fund, or a new entitlement program, created to provide a reasonable solution to this problem. If we simply require claimants to prove in court that they have an asbestos-related disease or impairment, then we can compensate those who are truly sick and they can be compensated well. The defendants companies and the insurance companies could all pay a lot more to the most deserving victims of asbestos exposure, if they did not have to needlessly pay money to the two-thirds who do not have asbestos-related disease.

Many of these plaintiffs lawyers who are involved in these mass action suits, those who represent legitimate victims who are being pushed aside by the non-injured, actually say that a medical criteria bill would be the right solution. We do not need take away anybody's ability to go to court. The truly sick can be truly compensated. And do not need to pay false or premature claims. We simply do not need to pay claims to people who, frankly, should

not be receiving benefits. The fact is, people who do not have asbestos-related disease are clogging the courts, and they are denying people who do have the disease just compensation.

I have introduced such legislation that will go a long way to solving these problems. I have kind of held back to see whether or not this trust fund approach would work, and, frankly, I do not believe it will work, whether it is $118 billion or $153 billion.

I heard many of my Democratic colleagues say if it had a little more money maybe they could support it. It will not work. My guess is if there was a fund of $153 billion or even $173 billion, as much money as that is, with the medical criteria being lax as it is in this bill especially for smokers, it will not work because you will still have thousands of unqualified people saying, ''My lung cancer should be covered too.''

As a matter of fact, if one looks at one of the compensation plans under this bill, yes, under levels VII, VIII and IX section C, smokers get compensation without having clear proof it was caused by their asbestos exposure. Now, maybe they worked in a plant that might have had asbestos present, but if they cannot prove that it was the cause of their cancer and not, for example, the five packs of cigarettes they smoked each day for thirty years, then they should not be compensated, but this Trust Fund bill would do this.

My point is, let's go back to the drawing board. I do not believe a trust fund approach is the right approach. I happen to think that S. 2290 is almost an invitation for people to say here is a bunch of money, probably not enough money, so let's make sure we run our claims early, fast, and get in while the money is still there. So the claims would greatly exceed the money available no matter what size the pot of money is on the table. And when it runs out the net result will be that people will come to the Federal Government to keep it going. This trust fund will simply not be adequate to compensate all the claims, especially not with lax medical criteria.

So I urge our colleagues to rethink this. Let's establish medical criteria in the courts using medical evaluation standards proposed by the American Medical Association, and consistent with a resolution endorsed by the American Bar Association, that calls on Congress to establish criteria standards along those lines and toll the statute of limitations for those who may become sick in the future. Let's compensate those families, those individuals, who are truly sick. Let's help the victims, and not reward people who do not even have asbestos disease or injury by giving them two-thirds of the benefits under this present flawed system.

I urge my colleagues to seriously review such an alternative approach when we reconsider this bill in the not too distant future.

I ask unanimous consent that the CBO letter of April 20, 2004, be printed 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, April 20, 2004.

Hon. DON NICKLES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, CBO has prepared a cost estimate for S. 2290, the Fairness in Asbestos Injury Resolution Act of 2004, as introduced on April 7, 2004. The bill would establish the Asbestos Injury Claims Resolution Fund (Asbestos Fund) to provide compensation to individuals whose health has been impaired by exposure to asbestos. The fund would be financed by levying assessments on certain firms. Based on a review of the major provisions of the bill, CBO estimates that enacting S. 2290 would result in direct spending of $71 billion for claims payments over the 2005–2014 period and additional revenues of $57 billion over the same period. Including outlays for administrative costs and investment transactions of the Asbestos Fund, CBO estimates that operations of the fund would increase budget deficits by $13 billion over the 10-year period. The estimated net budgetary impact of the legislation is shown in Table 1.

S. 2290 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate direct cost of complying with the intergovernmental mandates in S. 2290 would be small and would fall well below the annual threshold ($60 million in 2004, adjusted annually for inflation) established in UMRA. CBO also estimates that the aggregate direct cost of complying with the private-sector mandates in S. 2290 would well exceed the annual threshold established in UMRA ($120 million in 2004 for the private sector, adjusted annually for inflation) during each of the first five years those mandates would be in effect.

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF S. 2290

	By fiscal year, in billions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN DIRECT SPENDING										
Claims and administrative expenditures of the Asbestos Fund:										
Estimated budget authority	*	18.5	12.8	12.9	5.3	5.3	5.3	5.2	5.0	4.9
Estimated outlays	*	7.5	10.7	14.6	9.8	7.6	5.3	5.3	5.2	5.0
Investment transactions of the Asbestos Fund:										
Estimated budget authority	5.4	2.0	−4.8	−3.3	0	0	0	0	0	0
Estimated outlays	5.4	2.0	−4.8	−3.3	0	0	0	0	0	0
Total direct spending:										
Estimated budget authority	5.4	20.6	8.0	9.6	5.3	5.3	5.3	5.2	5.0	4.9
Estimated outlays	5.4	9.5	5.9	11.3	9.8	7.6	5.3	5.3	5.2	5.0
CHANGES IN REVENUES										
Collected from bankruptcy trusts [1]	1.0	0	0	4.6	0	0	0	0	0	0
Collected from defendant firms	3.3	2.8	2.8	2.8	2.7	2.7	2.7	2.7	2.7	2.6
Collected from insurers	2.7	7.5	2.2	1.6	1.6	1.6	1.6	1.6	1.6	1.6
Total revenues	7.0	10.3	5.0	9.0	4.4	4.3	4.3	4.3	4.3	4.3
Estimated net increase or decrease (−) in the deficit from changes in revenues and direct spending	−1.5	−0.8	1.0	2.3	5.5	3.2	1.0	1.0	0.9	0.8

[1] Cash and financial assets of the bankruptcy trusts have an estimated value of about $5 billion. The federal budget would record the cash value of the noncash assets as revenues when they are liquidated by the fund's administrator to pay claims.

Notes.—Numbers in the table may not add up to totals because of rounding. * = less than $50 million. CBO estimates that by 2014 the Asbestos Fund under S. 2290 would have a cumulative debt of around $15 billion. Borrowed funds would be used during this period to pay claims and would later be repaid from future revenue collections of the fund. We estimate that interest costs over that period would exceed $2.5 billion, and CBO's projections of the fund's balances reflect those costs. However, they are not shown in this table as part of the budgetary impact of S. 2290 because debt service costs incurred by the government are not included in cost estimates for individual pieces of legislation.

Major provisions

Under S. 2290, a fund administrator would manage the collection of federal assessments on certain companies that have made expenditures for asbestos injury litigation prior to enactment of the legislation. Claims by private individuals would be processed and evaluated by the fund and awarded compensation as specified in the bill. The administrator would be authorized to invest surplus funds and to borrow from the Treasury or the public—under certain conditions—to meet cash demands for compensation payments. Finally, the bill contains provisions for ending the fund's operations if revenues are determined to be insufficient to meet its obligations.

S. 2290 is similar in many ways to S. 1125. A more detailed discussion of the fund's operations and the basis for CBO's estimates of the cost of compensation under these bills is provided in our cost estimate for S. 1125, the Fairness in Asbestos Injury Resolution Act of 2003, which was transmitted to the Senate Judiciary Committee on October 2, 2003.

Budgetary impact after 2014

CBO estimates that S. 2290 would require defendant firms, insurance companies, and asbestos bankruptcy trusts to pay a maximum of about $118 billion to the Asbestos Fund over the 2005–2031 period. Such collections would be recorded on the budget as revenues.

We estimate that, under S. 2290, the fund would face eligible claims totaling about $140 billion over the next 50 years. That projection is based on CBO's estimate of the number of pending and future asbestos claims by type of disease that would be filed with the Asbestos Fund, as presented in our cost estimate for S. 1125. While the projected number of claims remains the same, differences between the two bills result in higher projected

claims payments under S. 2290. The composition of those claims and a summary of the resulting costs is displayed in Table 2.

Although CBO estimates that the Asbestos Fund would pay more for claims over the 2005–2014 period than it would collect in revenues, we expect that the administrator of the fund could use the borrowing authority authorized by S. 2290 to continue operations for several years after 2014. Within certain limits, the fund's administrator would be authorized to borrow funds to continue to make payments to asbestos claimants, provided that forecasted revenues are sufficient to retire any debt incurred and pay resolved claims. based on our estimate of the bill's likely long-term cost and the revenues likely to be collected from defendant firms, insurance companies, and certain asbestos bankruptcy trust funds, we anticipate that the sunset provisions in section 405(f) would have to be implemented by the Asbestos Fund's administrator before all future claimants are paid. Those provisions would allow the administrator to continue to collect revenues but to stop accepting claims for resolution. In that event, and under certain other conditions, such claimants could pursue asbestos claims in U.S. district courts.

TABLE 2.—SUMMARY OF ESTIMATED ASBESTOS CLAIMS AND AWARDS UNDER S. 2290

[Dollars in billions]

	Initial 10-year period		Life of fund	
	Number of claims	Cost	Number of claims	Cost of claims
Claims for malignant conditions	59,000	$36	127,000	$82
Claims for nonmalignant conditions	627,000	17	1,230,000	36
Pending claims	300,000	22	300,000	22
Total	986,000	75	1,657,000	140

Major differences in the estimated costs of claims under S. 1125 and S. 2290

You also requested that CBO explain the major differences between our cost estimates for S. 1125 and S. 2290. On March 24, 2004, in a letter to Senator Hatch, CBO updated its October 2, 2003, cost estimate for S. 1125, principally to reflect new projections about the rate of future inflation and an assumed later enactment date for the bill. That letter explains that we now estimate enactment of S. 1125 at the end of fiscal year 2004 would result in claims payments totaling $123 billion over the lifetime of the Asbestos Fund (about 50 years).

Three factors account for the difference between the estimated cost of claims under S. 1125 and that under S. 2290 (see Table 3):

The award values specified in S. 2290 are higher for certain types of diseases. That difference would add about $11 billion to the cost of claims, CBO estimates.

Under S. 2290, most asbestos claims could not be settled privately once the bill is enacted. In contrast, under S. 1125, asbestos claims could continue to be settled by private parties between the date of enactment and the date when the Asbestos Fund is fully implemented; defendant firms could credit any payments made during that period against required future payments to the fund. Consequently, CBO estimates that the fund created by S. 2290 would face about $5 billion in claims that, under S. 1125, we anticipate would be settled privately.

S. 2290 specifies that administrative expenses of the program would be paid from the fund. Under S. 1125, in contrast, administrative costs would be appropriated from the general funds of the Treasury. That difference would increase costs to the fund by about $1 billion over its lifetime.

In the limited time available to prepare this estimate, CBO has not evaluated the differences between the two bills in administrative procedures. Under S. 2290, the Asbestos Fund would be operated by the Department of Labor rather than the U.S. Court of Federal Claims. This and other differences between the two bills could affect the cost of administration, the timing and volume of claims reviewed, and the rate of approval for claims payments.

TABLE 3.—DIFFERENCES IN ESTIMATED CLAIMS AGAINST THE ASBESTOS FUND UNDER S. 1125 AND S. 2290

	In billions of dollars
Estimated cost of asbestos claims under S. 1125:	123
Added costs due to higher award values under S. 2290	11
Additional claims not privately settled after enactment under S. 2290	5
Administrative costs under S. 2290 [1]	1
Total estimated claims against the fund under S. 2290	140

[1] Under S. 1125 administrative costs would be appropriated from the general fund of the Treasury.

Major differences in estimated revenue collections under S. 1125 and S. 2290

CBO estimates that the Asbestos Fund under S. 2290 would be limited to revenue collections of about $118 billion over its lifetime, including contingent collections. CBO has not estimated the maximum amount of collections that could be obtained under S. 1125, but they could be greater than $118 billion under certain conditions. In our cost estimate for S. 1125, we concluded that revenue collections and interest earnings were likely to be sufficient to pay the estimated cost of claims under that bill. That is not the case for S. 2290.

Over the first 10 years of operations, we estimate that revenue collections under S. 1125 would exceed those under S. 2290 by $7 billion. Thus, under S. 2290 we estimate that there would be little interest earnings on surplus funds and that the Asbestos Fund would need to borrow against future revenues to continue to pay claims during the first 10 years of operations.

Estimates of the cost of resolving asbestos claims are uncertain

Any budgetary projection over a 50-year period must be used cautiously, and as we discussed in our analysis of S. 1125, estimates of the long-term costs of asbestos claims likely to be presented to a new federal fund for resolution are highly uncertain. Available data on illnesses caused by asbestos are of limited value. There is no existing compensation system or fund for asbestos victims that is identical to the system that would be established under S. 1125 or S. 2290 in terms of application procedures and requirements, medical criteria for award determination, and the amount of award values. The costs would depend heavily on how the criteria would be interpreted and implemented. In addition, the scope of the proposed fund under this legislation would be larger than existing (or previous) private or federal compensation systems. In short, it is difficult to predict how the legislation might operate over 50 years until the administrative structure is established and its operations can be studied.

One area in which the potential costs are particularly uncertain is the number of applicants who will present evidence sufficient to obtain a compensation award for nonmalignant injuries. CBO estimates that about 15 percent of individuals with nonmalignant medical conditions due to asbestos exposure would qualify for awards under the medical criteria and administrative procedures specified in the legislation. The remaining 85 percent of such individuals would receive payments from the fund to monitor their future medical condition. If that projection were too high or too low by only 5 percentage points, the lifetime cost to the Asbestos Fund could change by $10 billion. Small changes in other assumptions—including such routine variables as the future inflation rate—could also have a significant impact on long-term costs.

Intergovernmental and private-sector mandates

S. 2290 would impose an intergovernmental mandate that would preempt state laws relating to asbestos claims and prevent state courts from ruling on those cases. In addition, the bill contains private-sector mandates that would:

Prohibit individuals from bringing or maintaining a civil action alleging injury due to asbestos exposure;

Require defendant companies and certain insurance companies to pay annual assessments to the Asbestos Fund;

Require asbestos settlement trusts to transfer their assets to the Asbestos Fund;

Prohibit persons from manufacturing, processing, or distributing in commerce certain products containing asbestos; and

Prohibit certain health insurers from denying or terminating coverage or altering any terms of coverage of a claimant or beneficiary on account of participating in the bill's medical monitoring program or as a result of information discovered through such medical monitoring.

S. 2290 contains one provision that would be both an intergovernmental and private-sector mandate as defined in UMRA. That provision would provide the fund's administrator with the power to subpoena testimony and evidence, which is an enforceable duty.

CBO estimates that the aggregate direct cost of complying with the intergovernmental mandates in S. 2290 would be small and would fall well below the annual threshold ($60 million in 2004, adjusted annually for inflation) established in UMRA. CBO also estimates that the aggregate direct cost of complying with the private sector mandates in S. 2290 would well exceed the annual threshold established in UMRA ($120 million in 2004 for the private sector, adjusted annually for inflation) during each of the first five years those mandates would be in effect.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lanette J. Walker (for federal costs, who can be reached at 226–2860, Melissa Merrell (for the impact on state, local, and tribal governments), who can be reached at 225–3220, and Paige Piper/Bach (for the impact on the private sector), who can be reached at 226–2960.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Mr. NICKLES. I yield the floor.

SCOTT CAMPBELL, STEPHANIE ROPER, WENDY PRESTON, LOUARNA GILLIS, AND NILA LYNN CRIME VICTIMS' RIGHTS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 2329, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2329) to protect crime victims' rights.

The PRESIDING OFFICER. Under the previous order, each of the following Senators control 30 minutes: Senators KYL, HATCH, LEAHY, and FEINSTEIN.

The Senator from California is recognized.

Mr. REID. Will the Senator yield for a parliamentary inquiry?

Mrs. FEINSTEIN. Absolutely.

Mr. REID. Following the use or yielding back of the time, the Chair just announced we will vote on this measure; is that true?

The PRESIDING OFFICER. That is correct.

Mrs. FEINSTEIN. Mr. President, 8 years ago the Senator from Arizona asked me if I would join with him in a pursuit to give victims basic rights under the Constitution of the United States. It was something I knew a little bit about and I was delighted to do it. What I didn't know a lot about was the drafting of a constitutional amendment and how difficult it was. The next 8 years actually proved to be one of the most rewarding times of my Senate experience.

First, I thank the Senator from Arizona for his collegiality, for the ease with which we have been able to work together, and for his leadership on this issue, which has been absolutely 100 percent unrelenting.

In a time of increasing partisan separation in this body, the friendship, the collegiality, and the leadership has been so appreciated by me. It has been one of the bright spots in my Senate career. I want him to know how much I appreciate it.

I also thank victims, about 30 or 40 of whom are present in the gallery. These are victims who have had terrible things happen to them, but rather than sink back into the depths of despair, have decided they would fight for something so that anyone who had similar things happen to them could have a part in the criminal justice system. Particularly, I would like to acknowledge a few of those victims.

The first is Colleen Campbell. Colleen Campbell has lost two members of her family as a product of murder. Senator KYL, in his remarks, will make that clear. She has become an ardent supporter of our efforts, and a small pin that Senator KYL and I are wearing today is the pin which represents a group called ''Force 100.'' These are victims who have been asking Congress to take this action. The pin depicts an angel holding a checkered flag. Her brother, Mickey Thompson, who was murdered, was a race car driver, and therefore the checkered flag. Her son, Scott Campbell, was also murdered. Colleen, a brilliant leader and a wonderful woman, has lost two members of her family—her son and her brother—to murder.

The other was Roberta Roper. Roberta is one of the first people I met. She hails from Maryland. Again, Senator KYL will say more about the circumstances of that crime.

The third is Steve Twist, who has represented the victims with integrity and steadfastness over these past 8 years, to try to get for them as much as could be possible in the recognition of their rights.

Essentially, bottom line, what we have found after numerous Judiciary Committee subcommittee hearings, committee hearings, markups, putting the victims' rights constitutional amendment out on the Senate floor in a prior session, taking it down because we didn't have the votes, beginning anew in this session, going through the processes in committee, and recognizing that we didn't have the 67 votes necessary for a constitutional amendment—both Senator KYL and I, as well as the victims and their advocates, decided that we should compromise. There are Members of this body who very much want a statute. There are Members of this body who very much want a constitutional amendment. We have drafted a statute which we believe is broad and encompassing, which provides enforcement rights for victims, provides funding for the Department of Justice victims' rights programs, for legal clinics, for enforcement to carry out this law federally and also to spread the word to local and State jurisdictions to enact similar laws.

We basically provide a set of eight rights:

The right to be reasonably protected from the accused; the right to reasonable, accurate, and timely notice of public proceedings so that you know what is happening as well as notice if the accused is released or escapes from custody—

I can't tell you how many victims who may have testified against their assailant live in dread of the fact that an assailant will be released, they won't know it, they won't be able to protect themselves, and the assailant will come after them. That is not theory. It has happened over and over again. There are cases of that, with which I am intimately, unfortunately, knowledgeable—

The right to be present at public proceedings, not to be barred from a court hearing, not to be barred by a public proceeding involving a plea agreement;

The right to be reasonably heard at critical steps in the process, those involving release, plea, or sentencing; the right to confer with the prosecutor;

The right to full and timely restitution, as provided by law;

The right to proceedings free from unreasonable delay;

And the right to be treated with fairness and with respect for the victim's dignity and privacy.

At one time the system of criminal justice in the United States of America provided these rights. Victims had rights until about the mid-19th century, the 1850s, when the concept of the public prosecutor was developed in our Nation. Up to that time, victims brought cases. Victims hired lawyers. Victims even hired sheriffs to prosecute cases. That changed in the mid-19th century, and in that change the victim became left out of the process.

Nowhere was the need for this legislation made more clear than during the trials over the Oklahoma City bombing.

Because we got involved, the Senate and the House, because victims were not being given the rights afforded to them by prior legislation, victims then went to a district court of appeals and victims were then subsequently still told that they had no standing.

A brief account of the trial in the Oklahoma City bombing case illustrates this point:

During pre-trial conference in the case against Timothy McVeigh, the District Court issued a ruling to preclude any victim who wished to provide victim impact testimony at sentencing from observing any proceeding in the case.

In a hearing to reconsider the issue of excluding victim witnesses, the trial court denied the victims' motion asserting standing to present their claims and denied the motion for reconsideration.

Three months later in February 1997, the Tenth Circuit Court of Appeals, rejected, without oral argument, the victims' claims on jurisdictional grounds finding they had no ''legally protected interest'' to be present at the trial and had suffered no ''injury in fact.''

Congress reacted the next month by overwhelmingly passing the Victims' Rights Clarification Act of 1997, which provided that watching a trial does not constitute grounds for denying the chance to provide a victim impact statement at sentencing. President Clinton signed the bill into law on March 20, 1997.

When the victims filed a motion with the District Court seeking a hearing to assert their rights under the new law, the District Court concluded ''any motions raising constitutional questions about this legislation would be premature and would present issues that are not now ripe for decision.''

The court then entered a new order on victim-impact witness sequestration, and refused to grant the victims a hearing on the application of the new law, stating that its ruling rendered the request ''moot.''

I believe the result would be different if the bill we are considering today was law then. The victims and the families would have had standing, and would have been able to avail themselves of the mandamus proceeding to get a timely ruling on the merits from the Court of Appeals. Perhaps that would not have been necessary—the District Court judge, armed with the standing provision of this bill, perhaps would have reached a different result during the trial.

We have written a bill that we believe is broad. We have written a bill that provides an enforcement remedy; namely, the writ of mandamus.

This part of the bill is what makes this legislation so important, and different from earlier legislation: It provides mechanisms to enforce the set of rights provided to victims of crime.

These mechanisms fall into four categories:

A direction to our courts that they ''shall ensure that the crime victim is afforded the rights described in the law.''

A direction to the Attorney General of the United States to take steps to ensure that our Federal prosecutors ''make their best efforts'' to see that crime victims are aware of, and can exercise these rights.

A specific statement that the victim of a crime, or their representative, may assert these rights; the result is that, for the first time victims will have clear standing to ask our courts to enforce their rights.

And a new use of a very old procedure, the writ of mandamus. This provision will establish a procedure where a crime victim can, in essence, immediately appeal a denial of their rights by a trial court to the court of appeals, which must rule ''forthwith.'' Simply put, the mandamus procedure allows an appellate court to take timely action to ensure that the trial court follows the rule of law set out in this statute.

These procedures, taken together, will ensure that the rights defined in the first section are not simply words on paper, but are meaningful and functional.

The bill also has two separate resource provisions, which together will authorize the appropriation of $76 million over the next five years to ensure that the federal government assist crime victims in asserting these rights, and to encourage states to do the same: The bill authorizes a total of $51 million over five years for crime victim assistance grants administered by the Department of Justice to establish and maintain legal assistance programs throughout the nation.

These institutions are key to the success of this legislation, for this is how victims' rights will be really asserted and defended—by lawyers, standing up in court, and explaining to judges and prosecutors what the law means, and how it applies in the case at hand. Rights and remedies need articulation to work, and this money will help make that happen.

These grants, championed by my colleague Senator LEAHY, provide a total of $25 million over five years for a specific, and critical, purpose: to ''develop and implement'' the type of notification systems that take full advantage of modern technology.

Computers, linked to sophisticated telephone or automatic mailing systems, can help us ensure that the right to notice, set out in the first section of this bill, is not simply abstract, but is made real by a notification system that can provide ''accurate, and timely'' notice to victims' of crime and their families.

This act, of course, binds only the federal system, but is designed to affect the states also. First it is hoped that states will look to this law as a model and incorporate it into their own systems. This law encourages that by allowing both types of grants—legal assistance and victim notification—to be provided to state entities, and for use in state systems, where the state has in place ''laws substantially equivalent'' to this act.

Never before have these three critical components, rights, remedies and resources, been brought together. It has been said ''a right without a remedy is no right at all,'' and this law would couple victims' rights with victims' remedies in a way that has never been done before in the federal system. I believe that taken together we have a formula for success, and this law will work, and hopefully become the model for our States.

So why is the law needed?

Senator KYL and I have been working on this issue for the past 8 years. We offer this legislation because the scales of justice are out of balance—while criminal defendants have an array of rights under law, crime victims have few meaningful rights.

In case after case we found victims, and their families, were ignored, cast aside, and treated as non-participants in a critical event in their lives. They were kept in the dark by prosecutors to busy to care enough, by judges focused on defendant's rights, and by a court system that simply did not have a place for them.

The result was terrible—often the experience of the criminal justice system left crime victims and their families victimized yet again.

Let me be clear. I am not talking about the necessary emotional and psychological difficulties which are almost inevitable in our adversary system. Cross examination can be hard. The legal system sometimes must seem complex and irrational to those who do not work in it. Sometimes judges and juries make decisions that victims of crime do not like. But that is not the problem that this law addresses.

That problem is one of process and fairness. The rights I have spoken about are basic, and do not come at the expense of defendant's rights.

Boiled down, they involve the simple right to know what is going on, to participate in the process where the information that victim's and their families can provide may be material and relevant, and the right to be safe from violence.

I mentioned earlier the dramatic disparity between the rights of defendants in our constitution and laws, and the rights of crime victims and their families. My point is to illustrate that our government, and our criminal justice system, can and should care about both the rights of accused and the rights of victims. That is what this law addresses.

Some have said that current law is adequate. For instance, the Victim of Crime Act of 1984 sets out rights for victims—in fact the bill before us restates many of those rights. But prior laws did not have the critical combination of rights and remedies that we now offer.

In fact, a number of victims' rights laws have been passed:

1982, the Victim and Witness Protection Act, mentioned before, which provided for victim restitution and the use of victim impact statements at sentencing in federal cases;

1984, the Victims of Crime Act, which encouraged the States to maintain programs that serve victims of crime, and established a Crime Victims' Fund, which now matches up to 60 percent of the money paid by States for victim compensation awards;

1990, the Victims' Rights and Restitution Act, which increased funding for victim compensation and assistance, and codified a victims' Bill of Rights in the federal justice system;

1994, the Violence Against Women Act, which authorized over $1.6 billion over six years to assist victims of violence and prevent violence against women and children;

1996, the Mandatory Victims Restitution Act, which required courts to order restitution when sentencing defendants for certain offenses;

1996, the Justice for Victims of Terrorism Act, which appropriated funds to assist and compensate victims of terrorism and mass violence;

And 1997, the Victim Rights Clarification Act, which reversed a presumption against crime victims observing any part of the trial proceedings if they were likely to testify during the sentencing hearing, an issue which developed during the Oklahoma City bombing case. Specifically, this legislation prohibited courts from (1) excluding a victim from the trial on the ground that he or she might be called to provide a victim impact statement at sentencing, and (2) excluding a victim impact statement on the ground that the victim had observed the trial.

All of these laws represent a step in the right direction. But they are not enough. They don't really work to protect victims' many had hoped. Why is this? I believe it because they fail to provide an effective procedure for victims to assert standing and vindicate their rights. The bill before us builds on these earlier attempts, and goes one very important step farther—linking rights to remedies, and, I hope, fixing the problem with these earlier laws.

Some have asked—why proceed with a statute, rather than a Consitutional amendment? Why a law and not a constitutional amendment?

Senator KYL and I have been working for many years towards a constitutional amendment to establish these rights. I have always believed that amending the Constitution is the best way to ensure victims' rights are protected in the criminal justice process. But many have disagreed, arguing that we should try, once again, a legislative approach.

It is clear to me that passage of a Constitutional amendment is impossible at this time. If we tried, and failed, it could be years before we could try again. Victims of crime have waited years for progress, and a compromise approach, resulting in the bill now under consideration, will result in meaningful progress.

Will it work? I hope so. The bill before us is a new and bolder approach, than has ever been tried before in our Federal system.

The standing provision, coupled with the mandamus provision, may have the desired effect. This will be a test, and I, for one, will be watching it closely.

I think for both Senator KYL, and now for Senator HATCH, the distinguished chairman of the Judiciary Committee, and Senator LEAHY, the distinguished ranking member, who join us as major cosponsors of this bill, that we will follow this bill carefully and we will see whether the enforcement rights contained in this bill are adequate. If not, you can be sure as the Sun will rise tomorrow, we will be back with a constitutional amendment.

This bill is named after some of the victims. Both Senator KYL and I briefly want to state the story of the victims after whom the bill is named. I would like to tell the Senate a little bit about Louarna Gillis, who was 22 years old when she was slain on January 17, 1979, as part of a gang initiation. Her murderer wanted to enter the world of narcotics as part of the Mexican Mafia and was told the quickest way to do so was to murder the daughter of a Los Angeles Police Department officer. Can you believe it? It is true.

Louarna Gillis was targeted by the killer. He knew her in high school. That was the reason he targeted her. The murderer picked her up a few blocks from her home, drove her to an alley in East Los Angeles where he shot her in the head as she sat in the car. He pushed her into the alley and fired additional shots into her back.

Louarna's murderer was apprehended 6 months later. He had a long history of violence, including felony convictions.

Louarna's family was not notified of the arraignment, nor were they notified of other critical proceedings in this case. Her family's rights were largely ignored. The first trial resulted in a hung jury, 11 for first-degree murder, 1 not guilty. Louarna's father, John Gillis, was not allowed in the courtroom.

At the second trial, the murderer pled guilty to second-degree murder to avoid the death penalty. He was sentenced to 17 years to life. Parole for Louarna's murderer has successfully been blocked by her family to this day. He will be eligible for parole again in the next 6 to 8 months. Louarna's father, a former homicide detective with LAPD, had just left an intelligence assignment working against street gangs and the Mexican Mafia at the time of her murder. Can you imagine?

Mr. Gillis was later appointed by President George W. Bush as the Director of the Justice Department's Office for Victims of Crime. He testified before Congress on July 17, 2002. I said:

> I know firsthand the personal, financial, and emotional devastation that violent crime exacts on its victims. As a survivor of a homicide victim, I testify . . . with the unique advantage of understanding the plight that victims and their families face in the criminal justice system . . . When a person is victimized by crime, he or she is thrust into a whole new world in which the State's or the government's needs take priority.
>
> This is the most devastating time in a person's life, when they have lost a loved one to homicide or violent crime; they need protection.
>
> They need to let the court know how this crime has impacted their lives, because it will have a long-lasting, traumatic impact in their lives. It's important that they have the opportunity to say something to defend their loved one.

This terrible story took place in my home State of California. This bill will help fathers like Mr. Gillis: he would be notified of key proceedings, and be able to participate in a meaningful way.

I would like to tell you about Nila Ruth Lynn. Here is her picture. She was 69 years old. She was murdered at a homeowners association meeting on April 19, 2000, when an angry man stormed into the meeting and announced: ''I'm going to kill you.''

He was unhappy with the way the association had trimmed the bushes in his yard the previous month. Nila and another woman were killed and several other men were injured during the rampage. She died on the floor in the arms of her husband Duane. They had been married 49 years and 9 months. Nila left behind Duane and six children. The money the children had been saving for a 50th wedding anniversary gift was instead used to pay for her casket.

Duane Lynn suffered through long delays and continuances in this case. Despite clear State constitutional and statutory rights, Duane was not allowed to make a sentencing recommendation for his wife's murderer. Nila's killer was sentenced to death. Duane wanted the defendant to be sentenced to life imprisonment without the possibility of parole, rather than deal with the continuing appeals involving the death sentence.

The U.S. Supreme Court has denied its petition for a review of the Arizona Supreme Court's refusal to protect the right. He testified before the Senate Judiciary Committee on April 8. Here is what he said:

> We, as a family of the victim, which was my wife, my love, the person I still expect to walk through my front door every day—she was a real person, not just a name and a number on a document. We could say nothing about the consequences of that man who took all this away from me. You have no idea what this feels like. The evil done by a murderer inflicts tragedy, and that is bad enough. But injuries inflicted by our legal system are even harder to take. I felt kicked around and ignored by the very system the government has in place to protect law-abiding citizens.

This is not the way criminal justice should be practiced in the United States of America. The time has come to give victims of crime the right to participate in the system, the right to notice of a public hearing, the right to be present at that public proceeding, the right to make a statement when appropriate, the right to have restitution, if ordered by a judge, the right to know when your assailant or attacker is released from prison, and the right to be treated by our prosecutors and by our criminal justice system with respect and dignity. That is not too much for the Congress of the United States to strive energetically to achieve for the 22 million victims in this country.

It is with great pleasure that over the years I have worked with Senator KYL to achieve this. Once again, I cannot thank him too much.

I thank the Chair. I yield the remainder of my time to the distinguished Senator from Arizona.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Arizona.

Mr. KYL. Madam President, it isn't always possible for us to schedule matters in the Senate in a convenient way. I am aware Senator FEINSTEIN must leave to attend another meeting. It is my hope she will able to be here before we vote.

While she is still here, I must say I share her sentiment that some of the most gratifying work I have done in the Senate has been my work with Senator FEINSTEIN and her good staff in putting together a constitutional amendment and working hard to try to get it passed and preparing for the hearings—speaking with the victims, meeting with the Justice Department—literally hundreds of hours of time we have spent together working on this issue. It has helped to foster a bond of trust and friendship between us that I think could be used as a template for our colleagues in this body to work together in a bipartisan way.

I can never thank Senator FEINSTEIN enough for her work on this amendment. I know the many victims who are here in the gallery share that sentiment.

This legislation would not be before us today without Senator FEINSTEIN. That is simply a fact. For all of the hard work we have put in with her cooperation and her commitment to this, I thank Senator FEINSTEIN deeply. She knows that bond of trust will continue to exist between us.

Mrs. FEINSTEIN. Madam President, I thank the Senator. I do appreciate those words. They mean a great deal to me.

If I might, I ask unanimous consent to add the Senator from Maryland, Senator MIKULSKI, as a cosponsor of the bill.

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

Mrs. FEINSTEIN. Madam President, I would like to retain the remainder of my time.

Mr. KYL. Madam President, I ask unanimous consent that Senators NICKLES and INHOFE be added as original cosponsors of the legislation.

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

Mr. KYL. Madam President, I join Senator FEINSTEIN in supporting S. 2329, which is the statutory version of the constitutional amendment we have prepared and about which Senator FEINSTEIN has spoken.

The legislation, as I will describe in a moment, will attempt to accomplish as much as possible the same goals the constitutional amendment which has been pending before us would have accomplished.

But before I discuss the details of that, there are several people I would like to thank. In addition to Senator FEINSTEIN—again it is impossible to express my appreciation enough for all of the hard work she put into this effort. We simply couldn't be here, because in order to get things passed in the Senate it is critical there be a bipartisan consensus, especially so for something that requires a supermajority. Without Democrats and Republicans working together, we would have never gotten to this point. Certainly Senator FEINSTEIN was largely responsible for the work on the Democratic side of the aisle.

I appreciate all of my colleagues' understanding and support on this as well.

Senator FRIST, who is willing to trust us in scheduling this for time on the floor—and there is very little time to take up matters, as the Presiding Officer knows—understood this was a very important commitment we had made to the victims of crime. During Crime Victims' Rights Month was the time to try to accomplish this. I appreciate his support.

I appreciate the support of Senator HATCH who throughout the years has never stood in the way but always lent us a hand in setting up a hearing and getting a time and a room for markup on the constitutional amendment and supporting its passage.

Again, it is not easy to get a constitutional amendment through even the Judiciary Committee, let alone to get it adopted. But Senator HATCH was supportive of that effort. I very much appreciate his cosponsorship of the statutory version of this amendment, as well as the support of Senator LEAHY.

I think I would be remiss if I didn't make the point that the first cosponsors of this legislation were Senator FEINSTEIN, myself, and Senators HATCH and LEAHY, chairman and ranking member of the Judiciary Committee.

Obviously this legislation has very strong support. We anticipate it will pass overwhelmingly and will be quickly sent to the House for action there, and hopefully to the President, who I am confident will be supportive of it and will sign it.

Let me at this point thank some of the victims' rights organizations. Again, they were responsible for bringing the issue to our attention and for providing a lot of the information we needed to be able to make the cases and for, frankly, the moral support to keep going. When Senator FEINSTEIN and I would get discouraged, after meeting with victims' rights groups we were no longer discouraged; we were even more committed to pursue this head on. Some of them are headed by remarkable people. There is a whole page of groups I will thank.

Specifically, I thank Mothers Against Drunk Driving, the National Organization for Victim Assistance, Parents of Murdered Children, and Force 100, and especially Colleen Campbell for her leadership of Force 100. Senator FEINSTEIN has already spoken of Colleen Campbell, and this pin in memory of Mickey Thompson speaks volumes about her leadership of this effort.

The fact this is Crime Victims' Rights Month and week I think is important. President Reagan actually had the first recognition of crime victims in a week that was designated for that purpose.

I think it is important at this time we especially recognize the victims of crime all over America; that with this year's memorial of victims' rights, America's values will be vindicated to some extent with the passage of this legislation.

It is especially poignant we would be waiting at this time to recognize these rights of victims of crime. Indeed, it is right to take up this issue. The right to fairness for crime victims and the right to notice and presence and participation are deeply rooted concepts in the United States of America. This country is all about fair play and giving power to the powerless in our society. It is about recognizing the values of liberty of the individuals against encroachments of the Government.

Fair play for crime victims, meaningful participation of crime victims in the justice system, protection against a government that would take from a crime victim the dignity of due process—these are consistent with the most basic values of due process in our society.

I was involved in Arizona issues for victims of crime even before I ever ran for the U.S. House of Representatives, so this was to some extent a cause for me before I became a public official. It was after I became a public official and people really came to me with these stories that I realized I had an opportunity to do more than the things I had done before. I have come to see the need for these protections as critical for our country.

While engaged in all of the other important activities, at bottom, it is a country about individuals who have inherent rights recognized and given to us by God. That is the basis for the creation of this country. Human dignity and the right that all people are made in God's image is such an important part of the foundation of our country that we would be remiss if we did not recognize that concept, that value, especially for those who have been victimized in our society because we could not as a government provide adequate protection for them.

I came to realize in many cases these victims were being victimized a second time because while we were asking them sometimes to come into court and testify against the perpetrators of the crime so they could be incarcerated or dealt with in an appropriate way for the further protection of society, we were not helping these victims at all. They were suffering through the trauma of the victimization and then being thrown into a system which they did not understand, which nobody was helping them with, and which literally prevented them from participation in any meaningful way. I came to realize there were literally millions of people out there being denied these basic rights, being victimized by our criminal justice system.

Let me mention two circumstances, but we will discuss all of the rights in a moment. The one circumstance that seemed to be the most frequent is: My mother was murdered, my daughter was murdered—whatever the situation—and I could not attend the trial. That is what our system says today.

While there are statutes in States and even some State constitutional provisions that purportedly guarantee a victim will not be denied access to the courtroom, it is still the case today that the victims, the victims' families, cannot even go into the courtroom. The defendant is there, the defendant's family is there seated in a reserved row seats, but the victim and the victim's family cannot be present. That is fundamentally wrong. We are not talking even about them saying anything. Obviously, everyone in the courtroom has to behave. The judge can throw anybody out if they do not behave or if they express emotions or try to communicate with the jury. That is not the issue.

They could not attend sometimes because the defendant's lawyer would say: It would be prejudicial to my client if the victims are seen in the courtroom. This was one of the circumstances that I could not believe our criminal justice system was imposing. It is one of those things that is fixed in this statute.

The other circumstance—and there is an especially telling, emotional case in Arizona I became familiar with which induced me to pursue this with all the vigor I could—is the circumstance where a crime has been committed, the perpetrator has been convicted and is in prison or jail, but unbeknown to the victim and the victim's family, the individual gets out of jail. The individual escapes, has some kind of a parole hearing or in some other way is able to leave before the sentence is up, and the victims are not even notified, let alone given an opportunity to appear before that parole board and say: Wait a minute, this person has a 15-year sentence and you are letting him out after 8 years. Let me tell you what he did to me.

Not to go into detail but to finish that story, in one of the Arizona cases with which I am familiar, the woman having been brutally raped and slashed and left to die recovered. Her perpetrator was convicted and put into prison. He had a parole hearing and the parole board decided to release him prematurely. She got no notice of that. She got no opportunity to be present.

By not quite coincidence but enormous alertness and compassion on the part of an individual in the Governor's office at the time routinely reading through the notices of the parole board, a staff person saw this and again almost coincidentally thought, Wait a minute, I don't think that is right under our law. He tracked down this individual who had by then moved to California and asked her if she would like an opportunity to appear before another parole board hearing if that could be arranged. She said yes. The parole board agreed to revisit the issue in a subsequent hearing and she testified. She told her story. After she told her story, the parole board reversed its opinion.

I asked her later: Were you afraid he would come after you if he were released? She said: No. My victimization was random. I was trying to hitchhike. I should never have done it.

He—and, by the way, his wife—picked her up and she was then brutalized as I described it. She said: It was random. I don't think he would come after me again. What I was concerned about was knowing the nature of the kind of individual that commits this kind of crime, he would do it again to somebody else. I didn't want him to have that opportunity to hurt somebody else like he hurt me.

That tells you about the motivation of these victims of crime who are willing, despite the hurt that it causes them, to participate in the criminal justice system—not just for themselves because they get nothing out of it—because they know what it is like and they want to prevent that harm to others.

Those are the kind of people whose portraits are behind me and who Senator FEINSTEIN was talking about. That is why we are trying to do something about righting this wrong, about balancing the scales of justice. Rightly, defendants in this country are protected better than in any country in the world through constitutional amendments that give them rights. We are not trying to take one single right away from any defendant. That would be wrong under our system. But we do think it is time to balance the scales of justice. That was the motivation for Senator FEINSTEIN and me.

Let me talk about some of these individuals. Senator FEINSTEIN talked about Duane Lynn. Duane is from Arizona. I will not repeat the entire story, but he enjoyed the Navy as a young man. He performed in the military. He had a successful career as a highway patrolman upholding the laws of the State of Arizona. He and his wife Nila literally fell in love as teenagers and had been married 49 years and 9 months, just 3 months shy of their 50th anniversary when she was brutally murdered as Senator FEINSTEIN talked about. They had left their home to attend this homeowners' meeting and just happened to be in the wrong place at the wrong time because the murderer, who was a disgruntled and enraged former resident of the community, burst into the room saying, I am going to kill you, and he started shooting.

As I said, Duane and Nila had been married not quite 50 years when she was brutally murdered. In anticipation of the golden anniversary of their parents, the Lynn children had secretly been saving money to throw a surprise anniversary party, and that money was used to pay for Nila's casket.

It is at this point that Duane's journey through the legal system really started. As Senator FEINSTEIN recounted, he did not really understand what it meant to participate in the judicial system at that time but at least understood that he would have some voice in what happened.

Under the Arizona law and constitution, he had a right, for example, to make a recommendation to the judge when the judge sentenced the perpetrator. But despite having that right in the Arizona Constitution—and, by the way, Arizona judges are pretty good about enforcing these rights—he was denied the right to even appear at the time of sentencing to tell the judge the sentence he thought the perpetrator should get.

He lost an appeal to the Arizona Supreme Court and a petition for certiorari to the U.S. Supreme Court. They all told him his rights were unenforceable because for him to speak would violate the defendant's eighth amendment rights against cruel and unusual punishment.

Now, that is one of the reasons that Senator FEINSTEIN and I believed that a constitutional amendment was necessary, because as long as the defendant's rights are always asserted as Federal constitutional rights, a mere statutory right, such as we are creating today, is going to be subservient to that. It will be very difficult for victims to win in cases where the defendant's right is asserted under the U.S. Constitution.

Even as a State constitutional right, Duane Lynn was denied the right to speak because the court perceived that the Federal eighth amendment superseded the Arizona State Constitution. So we may still have problems, even with the adoption of a statute here. But Senator FEINSTEIN and I are committed to moving the cause forward, to see whether it is possible to make statutes work, so that we do not need a Federal constitutional amendment. If, as it turns out, we do, then we will revisit the issue, as she said. Hopefully, we will not need to do that.

Just a final I think paradoxical or ironic ending in the Duane Lynn matter. He wanted to speak at the time of sentencing, not to urge the court to impose the death sentence but to impose life without parole. That recommendation was denied because, as I said, the court held that the defendant's rights outweighed his rights.

Let me talk about some of the other victims. I just briefly want to mention Louarna Gillis, because John Gillis, her father, who was a Los Angeles police officer at the time, is now a very important person in our Government in protecting victims' rights because he heads up the Office for Victims of Crime in the Department of Justice.

One of the reasons the Attorney General and the President wanted him in that position is because he felt firsthand the sting of being a crime victim when his daughter was killed, picked out at random by a gang member because the gang member, to be initiated in the gang, had to kill the child of a cop. She just happened to be a child of a cop and she was killed.

John could not be here today, but his wife Patsy is in attendance. I commend her for her support of this effort as well.

Their family has suffered further tragedy in the very recent death of their only other child, their son John. So it reminds us that it is important not only for people to have rights as victims of crime, but to recognize that these very people are the people who are willing to take up the cause here to right this injustice.

By John Gillis' efforts, he literally became the person in charge of this issue in our Government. He is doing an incredibly great job. Part of this legislation is to give him some additional responsibility and a little bit more in the way of resources to see to it that our Federal Government, through the Department of Justice, the Attorney General, and the Office for Victims of Crime, can continue to support the effort of crime victims. I applaud John Gillis very much and appreciate his wife Patsy being with us today.

Let me mention three other people, because this legislation is named for five people—the two I mentioned and then the other three I will mention. Let me discuss each of them.

Roberta Roper is also in attendance. There is nobody who has pursued the cause for victims' rights more strongly than Roberta Roper. She has made numerous trips to Washington. She has testified before the Judiciary Committee in support of the constitutional amendment. She has given us incredible advice and strength. What she did, after her victimization, when her daughter Stephanie was murdered at the age of 22, was to start a foundation in her daughter's name, and that Stephanie Roper Foundation has been a tremendous asset in pursuing the cause of victims around the country.

Her daughter, on April 3, 1982, was kidnapped and raped, tortured and dismembered by two men. The killers had just come upon her when Stephanie's car had been disabled. They had kidnapped her and over a period of 5 hours had repeatedly tortured her. She tried to escape but was caught and killed in a most brutal manner.

Her parents were not even notified of the many continuances that were granted in this case. They were excluded from the courtroom for the entire first trial that occurred. They could not even go into the courtroom. In 1982, the defense convinced the court that the victims would be emotional, irrelevant, and probable cause for a reversal of an appeal. The court agreed and, therefore, denied Vince and Roberta Roper the right to be a voice for their daughter.

That is one of the things that will be corrected by this legislation. We hope a statutory correction will serve to be sufficient.

Roberta Roper is in attendance, and I thank her from the bottom of my heart. She and Collene Campbell—who I will mention next—have been two of the real troopers in this battle.

I also want to say, with regard to Collene Campbell, when Senator FEINSTEIN discussed the death of her son Scott, it is unfortunately the case in many of these situations that more than once people are victimized. Collene and Gary Campbell have been victimized twice. Collene's brother was killed as well and that has been discussed as well.

One of the killers of their son Scott was released from prison. By the way, the circumstances of Scott's murder were especially gruesome. He met an individual who was going to fly him to North Dakota, and somewhere between Los Angeles and Catalina Island, Scott Campbell was killed. His body was literally thrown out of the airplane into the ocean and has never been located.

His parents were not permitted to enter the courtroom during the trials for the men who murdered their son. They were not even notified of a district court of appeals hearing. When one of the killers was released, as I said, the Campbell family was not notified. They only learned of the developments through the newspaper.

You can argue that a defendant might be prejudiced in certain situations by victims having certain rights, but to treat victims this way is not to treat them with the fairness and dignity any American deserves under our values as a nation. Even when these rights exist in statute, when they are not observed, it is time for the Congress to act. That is why we act here, so that no one else will have to suffer through this kind of unfair treatment.

Scott Campbell is shown in this picture. I mentioned Nila Lynn before, as shown in this picture. Roberta Roper's daughter Stephanie is this beautiful young lady shown in this picture right here. As I said, her mother is with us today.

I would also like to mention Robert Preston. In the case of Bob Preston's 22-year-old daughter, Wendy—the beautiful young lady shown in this picture right here—she was murdered in his home on June 23, 1977. She was killed when a man broke into the home to steal money to buy drugs. Her body was found 6 days later. Wendy's murderer was arrested and charged with first-degree murder. Her parents were told that the State of Florida was the victim in the case and they would be notified if and when they were called as witnesses. That was it.

After nearly 6 years, the murderer was allowed to plead to a second-degree murder charge, and he was sentenced to life in prison. In 1987, the Florida Supreme Court overturned the killer's conviction, and in the decision also held that the victims had no rights. This is the kind of example that needs to be brought to light so Americans can appreciate that it is time for Congress to act.

This is Wendy Preston, yet another example of victims being treated unfairly.

There are a lot of other cases we could talk about. Wendy Preston and Stephanie Roper, Scott Campbell, Mickey Thompson, Nila Lynn, and Louarna Gillis are the best of America. We owe them our best. Our best is to ensure the families of future victims will not suffer through the same indignity their families have had to endure.

That is why Senator FEINSTEIN and I began the effort to try to persuade our colleagues a constitutional amendment was necessary to protect these rights, because the defendant's right was always constitutional. Unless we had an equal constitutional right, there was no chance in a conflict the court would ever afford the victim an equal right. That is why we still have reservations about a statutory remedy.

But a lot of our colleagues have said, try a statutory remedy and let's see if by bringing these situations to light, by providing incentives for States to follow the Federal example, by embodying these same rights that were in the constitutional proposal in a statute and giving the victims a right to sue, a remedy, a mandamus remedy, let's see if that can work.

After 8 years of work on the Federal constitutional amendment, supported by President Bush and the Attorney General, we were able to schedule, after we passed the bill through the Judiciary Committee, that constitutional amendment for floor action today. Knowing we would not have the 67 votes to pass it, we decided it was time to get something tangible in statute to protect the rights of victims, and accompanying it could be a modest appropriation of money to help actually support these victims in court when that was necessary and called for. We believed despite the potential that it would not serve adequately, it was time to try something, to be successful, and to at least move the ball forward.

As Senator LEAHY said in a press conference we had earlier: The Judiciary Committee of the Senate will provide very strong oversight of implementation of this statute so we will know if it is not working. If it does not work, we will be able to come back and pursue the constitutional remedy. But we consulted with the victims' rights groups that have been most active in support of this. They concurred it was time to pursue the statutory remedy, if we could get some assurance we would be successful in that pursuit and that it would not be simply a fool's errand.

Through the significant help of an individual who I am sure all would acknowledge has been the national leader of this effort, Steve Twist, a lawyer from Phoenix, AZ, communicating with the various victims' rights groups, the consensus was reached it was time for us to convert the constitutional proposal into a statute. This occurred within the last 48 hours. Through the cooperation of Senator LEAHY, Senator HATCH, staff, and several other Senators, but most importantly because of the very hard work done by Senator FEINSTEIN's staff and mine, they were able to literally convert these rights in the constitutional proposal into the statutory proposal for submission. That is what is before us today and what we will be voting on.

These are the rights that are set forth in the new statute: That the victim would be reasonably protected from the accused; afforded reasonable, accurate, and timely notice of any public proceedings involving the crime or any release or escape of the accused; included in public proceedings; ensured proceedings are free from unreasonable delay; that they could confer with the attorney for the government in the case; that they would be given a voice to be heard at any public proceeding involving release or plea or sentencing.

I ask unanimous consent to take time from the time under the control of Senator FEINSTEIN.

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

Mr. KYL. I noted in a rather inaccurate Washington Post editorial of yesterday that somehow victims would have a right to speak to the jury. That is what the Washington Post thought. They were very wrong, as they were in other comments in the editorial. There is nothing in here about anything like that. It is only during the time of a release, like the parole hearing I talked about earlier, or sentencing or pleading there would be an opportunity to speak.

They would have a right to full and timely restitution in appropriate cases, and the right to be treated fairly, with respect for their dignity and privacy. Most importantly, they would be granted the right to enforce these rights. They would have legal standing to enforce their rights in court with the appropriate writ procedure to be able to take the court's decision to the higher court. That is one of the problems with existing Federal law which

the Tenth Circuit Court of Appeals noted did not grant the victims the standing to sue. So that had to be corrected here.

Finally, we authorized an appropriation of funds to assure the proper oversight of these rights is exercised, that moneys would be made available to enhance the victim notification system, managed by the Department of Justice's Office for Victims of Crime, and the resources additionally to develop state-of-the-art systems for notifying crime victims of important states of development.

To pursue that a moment, all courts notify attorneys for the defendant, the prosecutor's office, and it is a relatively simple matter to add another name and telephone number or address to that list. That is what we are talking about here. It is now being done electronically. It is very easy. So the notice to victims of crime is not something that should be seen as an impediment.

I would like to conclude by thanking some people. Since I know Senator FEINSTEIN did have to attend another meeting, let me thank some folks. Before I do that, I ask unanimous consent to add Senators LOTT and NICKLES as original cosponsors.

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

Mr. KYL. As soon as Senator LEAHY is here, I will relinquish the floor to him.

I do want to thank President Bush and Attorney General Ashcroft; the Office for Victims of Crime Director John Gillis and the administration for their help; Colleen Campbell and her husband Gary; Roberta Roper; Bob Preston; Duane Lynn; Earlene Eason from Indiana, whose son Christopher was murdered; Sally Goelzer from Arizona, whose brother was murdered; Myssey Hartley from Arkansas, whose brother was murdered; Dee Engles, also from Arkansas, a family member murdered; the National Organization for Victim Assistance, especially Beth Rossman, president, Marlene Young, executive director, and John Stein, deputy director, who has been a tremendous help; the National Organization of Parents of Murdered Children, Nancy Ruhe-Munch, executive director; Mothers Against Drunk Driving, Wendy Hamilton, president, and Stephanie Manning; Professor Douglas Beloof, director of the National Crime Victim Law Institute, one of the entities integral to ensuring these rights are enforced—he has done a tremendous job in Oregon in setting up the programs and the lawyers who can defend victims' rights—Attorney Meg Garvin, lead staff attorney at NCVLI; Attorney General Jane Brady and the National Association of Attorneys General—this has been a bipartisan effort and almost every attorney general in the country has signed on; the National District Attorneys Association; the Fraternal Order of Police, strongly in support of what we are doing; the International Association of Chiefs of Police; the National Restaurant Association; U.S. Chamber of Commerce; Maricopa County attorney Rick Romely and county attorney Barbara LaWall in Arizona, who have helped me a lot in this effort; District Attorney Josh Marquis; the Arizona Voice for Crime Victims.

On Senator HATCH's staff, I thank Grace Becker, and on Senator CORNYN's staff, Jim Ho. On Senator FEINSTEIN's staff, I can't thank enough Steve Cash and David Hantman who have been tremendously helpful in providing great advice and counsel, particularly in the last 3 or 4 days, helping us to convert the amendment to a statutory provision and in working on the Democratic side to make this a truly bipartisan process.

Without their assistance, we would not have the statute before the body either.

I have a couple legal interns, Tom Stack and Kevin Wilson, who provided tremendous help to me, and finally I wish to thank my chief person on my staff, Stephen Higgins and I mentioned Steve Twist.

All of these organizations and individuals have been of tremendous help in getting to this point and ensuring we will be able to get this statutory provision passed and sent over to the House for action.

Madam President, I am going to conclude with a couple of points. As soon as Senator LEAHY arrives, I am going to relinquish the floor to him because Senator FEINSTEIN has the remainder of the time, and I advise colleagues, if anyone wishes to speak, they should do so right away because I suspect at the conclusion of Senator LEAHY's remarks and anything Senator HATCH and Senator FEINSTEIN wish to say, we will proceed to the final passage vote.

The act before us, in addition to setting forth the rights and providing a remedy for the victims of crime, has an authorization of funding. Let me describe that authorization.

In the first year, fiscal year 2005, $16.3 million will be available to the U.S. Attorney's Victims Witness Office for the Victims of Crime Office in the Department of Justice; $300,000 is for the Office of Victims of Crime to administer these new rights; $7 million to the Office of Victims of Crime for the National Crime Victim Law Institute to provide grants and assistance to lawyers to help victims of crime in court. It is the only entity in the country that provides lawyers for victims in criminal cases, and it will provide for two new regional offices and nine specific clinics. Finally, borrowing a provision from a bill Senator LEAHY had earlier, there is $5 million for grants to States to develop and implement state-of-the-art victim notification systems.

In the following 4 years, there will be each year authorized an appropriation of $26.5 million generally to the same entities and offices to ensure that these programs are carried out, that victims will have the support they need, and that the notice that is guaranteed in the legislation will be provided. Those are the authorizations for the funding. That is a description of the legislation.

I will close by again referring to the people who have driven this effort, the people who represent the families and who are themselves victims of crime, who did not simply retreat into a shell following the tragedy that befell them but who were willing to muster the courage and the strength to do something about the issue, not necessarily so that they could receive any particular kind of vindication, but so future victims would not have to suffer through the same kind of problems and the same indignities they did.

This is the real spirit of great people, of leaders, and it is the spirit of America. I commend all of these victims for the leadership role they have played in being willing to step out in very difficult circumstances to prod those of us in the legislative body to move this process forward and to get this legislation adopted. They are the ones who deserve the primary thanks today.

The victory, when we pass this legislation, will be largely a victory for them and all of the future victims who will never have to suffer the same kind of indignities that they did.

Mr. President, as the sponsor of this bill, I would like to enter into a colloquy with the Senator from California. She is the primary cosponsor of this bill. After extensive consultation with our colleagues, we have drafted a bill with a broad bipartisan consensus. It is not the intent of this bill to limit any laws in favor of crime victims that may currently exist, whether these laws are statutory, regulatory, or found in case law. I ask Senator FEINSTEIN if she agrees.

Mrs. FEINSTEIN. Yes, it is not our intent to restrict victims' rights or accommodations found in other laws. I would like to turn to the bill itself and address the first section, (a)(1), the right of the crime victim to be reasonably protected. Of course, the Government cannot protect the crime victim in all circumstances. However, where reasonable, the crime victim should be provided accommodations such as a secure waiting area, away from the defendant before and after and during breaks in the proceedings.

Mr. KYL. I would like to address the notice provisions of section 2, (a)(2). The notice provisions are important because if a victim fails to receive notice of a public proceeding in the criminal case at which the victim's right could otherwise have been exercised, that right has effectively been denied. Public proceedings include both trial level and appellate level court proceedings. It does not make sense to enact victims' rights that are rendered useless because the victim never knew of the proceeding at which the right had to be asserted. Simply put, a failure to provide notice of proceedings at which a right can be asserted is equivalent to a violation of the right itself.

Equally important to this right to notice of public proceedings contained in this subsection is the right to notice of the escape or release of the accused. This provision helps to protect crime victims by notifying them that the accused is out on the streets.

For these rights to notice to be effective, notice must be sufficiently given in advance of a proceeding to give the crime victim the opportunity to arrange his or her affairs in order to be able to attend that proceeding and any scheduling of proceedings should take into account the victim's schedule to facilitate effective notice.

Restrictions on public proceedings are in 28 CFR Sec. 50.9, and it is not the intent here today to alter the meaning of that provision.

I ask Senator FEINSTEIN, if she can comment on her understanding of section (a)(2)?

Mrs. FEINSTEIN. My understanding of this subsection is the same the Senator's. Too often crime victims have been unable to exercise their rights because they were not informed of the proceedings. Pleas and sentencings have all too frequently occurred without the victim ever knowing that they were taking place. Victims are the persons who are directly harmed by the crime and they have a stake in the criminal process because of that harm. Their lives are significantly altered by the crime and they have to live with the consequences for the rest of their lives. To deny them the opportunity to know of and be present at proceedings is counter to the fundamental principles of this country. It is simply wrong. Moreover, victim safety requires that notice of the release or escape of an accused from custody be made in a timely manner to allow the victim to make informed choices about his or her own safety. This provision ensures that takes place.

I would like to turn to section 2, (a)(3) of the bill, which provides that the crime victim has the right not to be excluded from any public proceedings. This language was drafted in a way to ensure that the government would not be responsible for paying for the victim's travel and lodging to a place where they could attend the proceedings.

In all other respects, this section is intended to grant victims the right to attend and be present throughout all public proceedings.

This right is limited in two respects. First, the right is limited to public proceedings, thus grand jury proceedings are excluded from the right. Second, the Government or the defendant can request, and the court can order, judicial proceedings to be closed under existing laws. This provision is not intended to alter those laws or their procedures in any way. I ask the Senator is that is his understanding of this section.

Mr. KYL. Yes. That it is my understanding as well. There may be organized crime cases or cases involving national security that require procedures that necessarily deny a crime victim the right not to be excluded that would otherwise be provided under this section. This is as it should be. National security matters and organized crime cases are especially challenging, and there are times when there is a vital need for closed proceedings. In such cases, the proceedings are not intended to be interpreted as ''public proceedings'' under this bill. In this regard, it is not our intent to alter 28 CFR Sec. 50.9 in any respect.

Despite these limitations, this bill allows crime victims, in the vast majority of cases, to attend the hearings and trial of the case involving their victimization. This is so important because crime victims share an interest with the government in seeing that justice is done in a criminal case and this interest supports the idea that victims should not be excluded from public criminal proceedings, whether these are pretrial, trial, or post-trial proceedings.

This right of crime victims not to be excluded from the proceedings provides a foundation for the next section, section 2, (a)(4), which provides victims the right to reasonably be heard at any public proceeding involving release, plea, or sentencing. This provision is intended to allow crime victims to directly address the court in person. It is not necessary for the victim to obtain the permission of either party to do so. This right is a right independent of the Government or the defendant that allows the victim to address the court. To the extent the victim has the right to independently address the court, the victim acts as an independent participant in the proceedings. When a victim invokes this right during plea and sentencing proceedings, it is intended that the he or she be allowed to provide all three types of victim impact—the character of the victim, the impact of the crime on the victim, the victims' family and the community, and sentencing recommendations. Of course, the victim may use a lawyer, at their own expense, to assist in the exercise of this right. This bill does not provide victims with a right to counsel but recognizes that a victim may enlist counsel on their own.

It is not the intent of the term ''reasonably'' in the phrase ''to be reasonably heard'' to provide any excuse for denying a victim the right to appear in person and directly address the court. Indeed, the very purpose of this section is to allow the victim to appear personally and directly address the court. This section would fail in its intent if courts determined that written, rather than oral communication, could generally satisfy this right. On the other hand, the term ''reasonably'' is meant to allow for alternative methods of communicating a victim's views to the court when the victim is unable to attend the proceedings. Such circumstances might arise, for example, if the victim is incarcerated on unrelated matters at the time of the proceedings or if a victim cannot afford to travel to a courthouse. In such cases, communication by the victim to the court is permitted by other reasonable means. Is this the understanding of the Senator of this provision?

Mrs. FEINSTEIN. Yes. That is my understanding as well. The victim of crime, or their counsel, should be able to provide any information, as well as their opinion, directly to the court concerning the release, plea, or sentencing of the accused. This bill intends for this right to be heard to be an independent right of the victim, and thus cannot prevent the victim from being heard.

It is important that the ''reasonably be heard'' language not be an excuse for minimizing the victim's opportunity to be heard. Only if it is not practical for the victim to speak in person or if the victim wishes to be heard by the court in a different fashion should this provision mean anything other than an in-person right to be heard.

Of course, in providing victim information or opinion it is important that the victim be able to confer with the prosecutor concerning a variety of matters and proceedings. Section 2, (a)(5) provides a right to confer with the attorney for the Government in the case. This right is intended to be expansive. For example, the victim has the right to confer with the Government concerning any critical stage or disposition of the case. The right, however, is not limited to these examples. I ask the Senator if he concurs in this intent.

Mr. KYL. Yes. The intent of this section is just as the Senator says. This right to confer does not give the crime victim any right to direct the prosecution. Prosecutors should consider it part of their profession to be available to consult with crime victims about concerns the victims may have which are pertinent to the case, case proceedings or dispositions. Under this provision, victims are able to confer with the Government's attorney about proceedings after charging.

I would like to turn now to the section on restitution, section 2, (a)(6). This section provides the right to full and timely restitution as provided in law. This right, together with the other rights in the act to be heard and confer with the Government's attorney in this act, means that existing restitution laws will be more effective.

I am interested in the Senator's views of this restitution provision.

Mrs. FEINSTEIN. I thank the Senator. I join his comments.

I would like to move on to section 2, (a)(7), which provides crime victims with a right to proceedings free from unreasonable delay. This provision does not curtail the Government's need for reasonable time to organize and prosecute its case. Nor is the provision intended to infringe on the defendant's due process right to prepare a defense.

Too often, however, delays in criminal proceedings occur for the mere convenience of the parties and those delays reach beyond the time needed for defendant's due process or the Government's need to prepare. The result of such delays is that victims cannot begin to put the crime behind them and they continue to be victimized. It is not right to hold crime victims under the stress and pressure of future court proceedings merely because it is convenient for the parties or the court.

This provision should be interpreted so that any decision to continue a criminal case should include reasonable consideration of the rights under this section.

I am eager to hear the Senator's view on this.

Mr. KYL. I concur in the Senator's comments. I would add that the delays in criminal proceedings are among the most chronic problems faced by victims. Whatever peace of mind a victim might achieve after a crime is too often inexcusably postponed by unreasonable delays in the criminal case. A central reason for these rights is to force a change in a criminal justice culture which has failed to focus on the legitimate interests of crime victims, a new focus on limiting unreasonable delays in the criminal process to accommodate the victim is a positive start.

I would like to turn to section 2, (a)(8). This provision contains a number of rights. The broad rights articulated in this section are meant to be rights themselves and are not intended to just be aspirational. One of these rights is the right to be treated with fairness. Of course, fairness includes the notion of due process. Too often victims of crime experience a secondary victimization at the hands of the criminal justice system. This provision is intended to direct Government agencies and employees, whether they are in executive or judiciary branches, to treat victims of crime with the respect they deserve.

Does the Senator agree?

Mrs. FEINSTEIN. Yes.

It is not the intent of this bill that its significance be whittled down or marginalized by the courts or the executive branch. This legislation is meant to correct, not continue, the legacy of the poor treatment of crime victims in the criminal process. This legislation is meant to ensure that cases like the McVeigh case, where victims of the Oklahoma City bombing were effectively denied the right to attend the trial and to avoid federal appeals courts from determining, as the Tenth Circuit Court of Appeals did, that victims had no standing to seek review of their right to attend the trial under the former victims' law that this bill replaces.

I would also like to comment on section 2, (b), which directs courts to ensure that the rights in this law be afforded and to record, on the record, any reason for denying relief of an assertion of a crime victim. This provision is critical because it is in the courts of this country that these rights will be asserted and it is the courts that will be responsible for enforcing them. Further, requiring a court to provide the reasons for denial of relief is necessary for effective appeal of such denial.

Is that the understanding of the Senator?

Mr. KYL. Yes, it is.

Turning briefly to section 2, (c), there are several important things to point out in this subsection. First, where there is a material conflict between the Government's attorney and the crime victim, this provision protects crime victims' rights. This means that if Government lawyers interpret a right differently from a victim, urge a very narrow interpretation of a right, or do not believe a right should be asserted, they are in conflict with the victim and this provision requires that they inform the victim of this and direct the victim to independent counsel, such as the legal clinics for crime victims contemplated under this law. This is an important protection for crime victims because it ensures the independent and individual nature of their rights. Second, the notice section immediately following limits the right to notice of release where such notice may endanger the safety of the person being released. There are cases, particularly in domestic violence cases, where there is danger posed by an intimate partner if the intimate partner is released. Such circumstances are not the norm, even in domestic violence cases as a category of cases. This exception should not be relied upon as an excuse to avoid notifying most victims.

Is that the Senator's understanding of this section?

Mrs. FEINSTEIN. Yes.

I would now like to address the enforcement provisions of the bill, specifically section 2, subsection (d)(1). This provision allows a crime victim to enter the criminal trial court during proceedings involving the crime against the victim and assert the rights provided by this bill. This provision ensures that crime victims have standing to be heard in trial courts so that they are heard at the very moment when their rights are at stake and this, in turn, forces the criminal justice system to be responsive to a victim's rights in a timely way. Importantly, however, the bill does not allow the defendant in the case to assert any of the victim's rights to obtain relief. This prohibition prevents the individual accused of the crime from distorting a right intended for the benefit of the individual victim into a weapon against justice.

The provision allows the crime victim's representative and the attorney for the Government to go into a criminal trial court and assert the crime victim's rights. The inclusions of representatives and the Government's attorney in the provision are important for a number of reasons. First, allowing a representative to assert a crime victim's rights ensures that where a crime victim is unable to assert the rights on his or her own for any reason, including incapacity, incompetence, minority, or death, those rights are not lost. The representative for the crime victim can assert the rights.

Second, a crime victim may choose to enlist a private attorney to represent him or her in the criminal case—this provision allows that attorney to enter an appearance on behalf of the victim in the criminal trial court and assert the victim's rights. The provision also recognizes that, at times, the Government's attorney may be best situated to assert a crime victim's rights either because the crime victim is not available at a particular point in the trial or because, at times, the crime victim's interests coincide with those of the Government and it makes sense for a single person to express those joined interests. Importantly, however, the provision does not mean that the Government's attorney has the authority to compromise or co-opt a victim's right. Nor does the provision mean that by not asserting a victim's right the Government's attorney has waived that right. The rights provided in this bill are personal to the individual crime victim and it is that crime victim that has the final word regarding which of the specific rights to assert and when. Waiver of any of the individual rights provided can only happen by the victim's affirmative waiver of that specific right.

Does all of this correspond with Senator KYL's understanding of the bill?

Mr. KYL. Absolutely. The enforcement provision the Senator addressed is critical to this bill. Without the ability to enforce the rights in the criminal trial and appellate courts of this country any rights afforded are, at best, rhetoric. We are far past the point where lip service to victims' rights is acceptable. The enforcement provisions of this bill ensure that never again are victim's rights provided in word but not in reality.

I want to turn to section 2, subsection (d)(2) because it is an unfortunate reality that in today's world there are crimes that result in multiple victims. The reality of those situations is that a court may find that the sheer number of victims is so large that it is impracticable to accord each victim the rights in this bill. The bill allows that when the court makes that finding on the record the court must then fashion a procedure that still gives effect to the bill and yet takes into account the impracticability. For instance, in the Oklahoma City bombing case the number of victims was tremendous and attendance at any one proceeding by all of them was impracticable so the court fashioned a procedure that allowed victims to attend the proceedings by close circuit television. This is merely one example. Another may be to allow victims with a right to speak to be heard in writing or through

other methods. Importantly, courts must seek to identify methods that fit the case before that to ensure that despite numerosity of crime victims, the rights in this bill are given effect.

Does the Senator agree with this reading of the bill?

Mrs. FEINSTEIN. Absolutely. It is a tragic reality that cases may involve multiple victims and yet that fact is not grounds for eviscerating the rights in this bill. Rather, that fact is grounds for the court to find an alternative procedure to give effect to this bill.

I now want to turn to another critical aspect of enforcement of victims' rights, section 2, subsection (d)(3). This subsection provides that a crime victim who is denied any of his or her rights as a crime victim has standing to appellate review of that denial. Specifically, the provision allows a crime victim to apply for a writ of mandamus to the appropriate appellate court. The provision provides that court shall take the writ and shall order the relief necessary to protect the crime victim's right. This provision is critical for a couple of reasons. First, it gives the victim standing to appear before the appellate courts of this country and ask for review of a possible error below. Second, while mandamus is generally discretionary, this provision means that courts must review these cases. Appellate review of denials of victims' rights is just as important as the initial assertion of a victim's right. This provision ensures review and encourages courts to broadly defend the victims' rights.

Mr. President, does Senator KYL agree?

Mr. KYL. Absolutely. Without the right to seek appellate review and a guarantee that the appellate court will hear the appeal and order relief, a victim is left to the mercy of the very trial court that may have erred. This country's appellate courts are designed to remedy errors of lower courts and this provision requires them to do so for victim's rights. For a victim's right to truly be honored, a victim must be able to assert the rights in trial courts, to then be able to have denials of those rights reviewed at the appellate level, and to have the appellate court take the appeal and order relief. By providing for all of this, this bill ensures that victims' rights will have meaning.

I would like to turn our attention to section 2, subsection (d)(4) because that also provides an enforcement mechanism. This section provides that in any appeal, regardless of the party initiating the appeal, the government can assert as error the district court's denial of a crime victim's right. This subsection is important for a couple of reasons. First, it allows the Government to assert a victim's right on appeal even when it is the defendant who seeks appeal of his or her conviction. This ensures that victims' rights are protected throughout the criminal justice process and that they do not fall by the wayside during what can often be an extended appeal that the victim is not a party to.

Is that the Senator's understanding of the bill?

Mrs. FEINSTEIN. Yes.

I would like to turn to the next provision, section 2, subsection (d)(5). This subsection provides that a failure to afford a right under the act does not provide grounds for a new trial. This provision demonstrates that victim's rights are not intended to be, nor are they, an attack on defendants' protections against double jeopardy. This provision is not intended to prevent courts from vacating decisions in nontrial proceedings in which victims' rights were not protected and ordering those proceedings to be redone. It simply assures that a trial will not be redone. Thus, defendants' and victims' rights are both protected.

Is that the Senator's understanding?

Mr. KYL. Yes, it is. We have, over the years, tried to reassure those that oppose victims' rights that they are not an attempt to undermine defendants' rights. This provision reiterates that. It is important for victims' rights to be asserted and protected throughout the criminal justice process, and for courts to have the authority to redo proceedings other than the trial such as release hearings, pleas, and sentencings where victims' rights are abridged, but to not tread upon defendant's rights against double jeopardy in the process. Victims' rights are about a fair and balanced criminal justice system—one that considers defendant's rights as well as victims' rights. This provision protects that careful balance.

I want to turn to the definitions in the bill, contained in section 2, subsection (e). There are a couple of key points to be made about the definitions. A ''crime victim'' is defined as a person directly and proximately harmed as a result of any offense, felony or misdemeanor. This is an intentionally broad definition because all victims of crime deserve to have their rights protected, whether or not they are the victim of the count charged. Additionally, crime victims may, for any number of reasons, want to employ an attorney to represent them in court. This definition of crime victim allows crime victims to do that. It also assures that when, for any reason, crime victims are unable to assert rights on their own, those rights will still be protected.

Is that the Senator's understanding of the bill as well?

Mrs. FEINSTEIN. It is.

Now I would like to turn to the portion of the bill concerning administrative compliance with victims' rights, section 2, subsection (f). The provisions of this subsection are relatively self-explanatory, but it important to point out that these procedures are completely separate from and in no way limit the victim's rights in the previous section.

Is that Senator KYL's understanding?

Mr. KYL. Yes.

Let me comment briefly on section 4, Reports. Subsection (a) requires the Administrative Office of the U.S. Courts to report annually the number of times a right asserted in a criminal case is denied the relief requested, and the reasons therefore, as well as the number of times a mandamus action was brought and the result of that mandamus.

Such reporting is the only way we in the Congress and other interested parties can observe whether reforms we mandate are being carried out. No one doubts the difficulty of obtaining case-by-case information of this nature. Yes, this information is critical to understanding whether Federal statutes really can effectively protect victims' rights or whether a constitutional amendment is necessary. We are certain that affected executive and judicial agencies can work together to implement effective administrative tools to record and amass this data. We would certainly encourage the National Institute of Justice to support any needed research to get this system in place.

Is this Senator FEINSTEIN's understanding?

Mrs. FEINSTEIN. Yes.

One final point. Throughout this act, reference is made to the ''accused.'' Would the Senator also agree that it is our intention to use this word in the broadest sense to include both those charged and convicted so that the rights we establish apply throughout the criminal justice system?

Mr. KYL. Yes, that it is my understanding.

Mr. President, I anticipate Senator LEAHY's arrival. 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. LEAHY. 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. LEAHY. Madam President, I see my good friend, the Senator from Arizona, in the Chamber. I know the distinguished Senator from California will be joining us shortly. What is the time allocation? I know the distinguished Senator from Arizona wants to make sure we all have time, but I was just curious where we are.

The PRESIDING OFFICER. The Senator from Vermont and the Senator from Utah each have 30 minutes. The Senator from California has 6 minutes 34 seconds.

Mr. LEAHY. I do not anticipate using all my time by any means. I appreciate the courtesy of the Senator from Arizona who had indicated earlier that he fit us in because of conflicting schedules that the Senator from California and I have. Before I even begin, I want to again thank the distinguished Senators from Arizona and California for all they have done on this issue.

This past Sunday, as we all know, marked the start of National Crime Victims' Rights Week. We set this week aside each year to refocus attention on the needs and rights of crime victims. One would almost think we would not have to do that, but as a matter of fact, too often, the needs of victims are not met, and their rights are not fully honored. I learned this during my time as a prosecutor. I think all of us have learned this, from the experiences and some terribly gripping stories that we have heard from our constituents.

This year, the Senate had been scheduled to mark the occasion of National Crime Victims' Rights Week by taking up S.J. Res. 1, a proposed constitutional amendment. It was going to end up being days, maybe weeks, of debate even though everyone knew that the constitutional amendment was not going to pass. We went through this process back in April of the year 2000, during the last Presidential election year.

I said then, during that earlier debate on the constitutional amendment, that I have worked long and hard to protect and advance crime victims' rights, as have many on both sides of the aisle in this body. As a prosecutor for 8½ years, I worked day to day, year to year alongside victims, seeking justice on their behalf. This was back at a time before people spoke much about victims having rights. I like to think that my office was a model in this regard, for making sure that victims were heard.

I have worked on and have led many legislative efforts on behalf of victims throughout my service in the Senate. One of the most recent of those efforts was the creation of the September 11 Victim Compensation Fund. I am grateful to have been able to take part in something that has brought some relief to so many victims.

But I will never forget the victims I worked with as a prosecutor or the needs of the new victims minted each day through the crimes committed against them.

For years, at Christmas time, I received a very poignant letter from a woman who was the victim of a very serious crime. She told me how she was doing, how her children were doing.

When I go to the grocery store in Vermont, or I'm walking down the street, I run into people who were helped during those years and who had a voice during those years. It is gratifying, but I have to think about the fact that every single day, there are a whole lot more crimes, and a whole lot more victims.

I have always believed that victims should be afforded certain basic protections. I believe victims should be notified when the defendant is in court or when he is about to be released. I believe victims should be heard at critical stages of the prosecution. I believe victims are entitled to restitution from offenders.

In recent years, the debate has never been about whether victims should be protected. Of course they should. Rather, the debate has been about how victims should be protected.

I did not think the proposed constitutional amendment was the best way forward. I still believe that. We all agree, and every witness who testified before the Judiciary Committee on this issue agreed, that every right provided by the victims' rights amendment can be, or already is, protected by State or Federal statutory law.

So we have long had the power to enhance victims' rights through regular legislation, passed with a simple majority vote, and make an immediate difference in the lives of crime victims. Legislative enhancements are more easily enacted, more directly applied and implemented, and more able to provide specific, effective remedies. In addition, as Chief Justice Rehnquist and others have pointed out, statutes are more easily corrected if we find, in hindsight, that they need correction, clarification, or improvement.

When we pass the Kyl-Feinstein-Hatch-Leahy Victims' Rights Act, we will take a step that I have long advocated. So I thank and commend the principal sponsors of S.J. Res. 1, the distinguished Senators from California and Arizona. We came from both sides on the constitutional debate, but all of us are deeply committed to the cause of victims' rights, and that is why we came together on this legislation.

This legislation will provide crime victims in the Federal system with all the rights and protections that the proposed constitutional amendment would have provided. In fact, our statute goes further than the constitutional amendment because it gives the same rights and protections to all crime victims, not just to the victims of violent crimes. The elderly woman who is defrauded out of her life savings will get the same protection from this statute as other crime victims.

This statute, S. 2329, also spells out how victims' rights are to be enforced, using language that Senator KENNEDY and I developed in S. 805, the Crime Victims Assistance Act. In addition to providing victims with standing to assert their rights in mandamus actions, S. 2329 will establish an administrative authority in the Department of Justice to receive and investigate victims' claims of unlawful or inappropriate action on the part of criminal justice and victims' service providers. Department of Justice employees who fail to comply with the law pertaining to the treatment of crime victims could face disciplinary sanctions, including suspension or termination of employment.

We have incorporated other proposals from S. 805 as well, to help States implement and enforce their own victims' rights laws. And we have called for two annual reports, one by the Administrative Office of the Courts, and the other by the General Accounting Office, to make sure we get some feedback on how the rights and procedures established by the statute are working in practice. Over time, we will be able to modify and fine-tune the statute so that it provides an appropriate degree of protection for the rights of crime victims.

I have no doubt we are going to pass this law today. I believe the other body will pass the law, and the President will sign it. Then part of our duty is going to have to be to follow up to see how it works.

I said to some of the representatives of victims' groups this morning, keep our feet to the fire. Make sure we follow up. Passage of this bill will necessitate careful oversight of its implementation by Congress. If, as I hope, federal judges and prosecutors take victims' rights seriously, there should be little need for victims to bring mandamus actions to enforce their rights. But if, for whatever reason, victims feel that they are not being treated fairly, we may see a wave of new litigation in the federal courts, with victims and their lawyers having to insert themselves into criminal cases. We will need to monitor the situation closely.

I am committed to giving victims real and enforceable rights. But I am convinced that prosecutors should be capable of protecting those rights, once we make them clear. In my experience, prosecutors have victims' interests at heart.

Senator KENNEDY and I proposed in the Crime Victims Assistance Act a limited-standing provision, which applied with respect to the victim's right to attend and observe the trial, and under which a victim could assert her right if the prosecutor refused to do so. Passing such a provision would have allowed us to observe over a period of time whether direct participation of victims in criminal proceedings has any unanticipated consequences for the administration of justice.

This Victims' Rights Act proposes a bolder experiment, entitling victims to assert a panoply of rights, regardless of whether the prosecution is already asserting the same rights on their behalf. For example, at the insistence of other sponsors, this bill will enable victims to bring mandamus actions alleging the denial of their statutory right ''to be treated with fairness and with respect for the victim's dignity and privacy,'' which may be difficult claims to adjudicate.

I note with some regret that S. 2329 picks up language from S.J. Res. 1 denying victims any cause of action for damages in the event that their rights are violated. Allowing victims to vindicate their rights through separate proceedings for damages instead of through mandamus actions in the criminal case could well be a more efficient as well as a more effective way of ensuring that victims' rights are honored. Certainly the prospect of being held to account in such proceedings would provide a powerful incentive to take victims' rights seriously. But the

Republican sponsors of the bill did not want to provide for damages.

Similarly, some Republican Senators did not want to allow courts to appoint attorneys to help crime victims. It is my hope and belief that victims will seldom need representation, since they already have powerful advocates in our public prosecutors. Still, it is possible that a judge would want to appoint an attorney for a victim in an extraordinary case, as for example if there is a material conflict between the victim's interests and the interests of the prosecution. By failing to provide for this possibility, S. 2329 may perpetuate a system of unequal justice for victims, where the wealthy have the benefit of counsel, and the poor do not.

There are other provisions that were also, regrettably, left on the cutting-room floor during negotiations on this bill. First, we dropped a provision that was in the proposed constitutional amendment, which would have given victims certain rights in the context of clemency proceedings. I know Attorney General Ashcroft, when he was a Member of the Senate, felt strongly that victims should have a voice in these proceedings. I would welcome the chance to work with him, to have him provide for that within the Federal system, to do in the Federal system what he wanted to do while a member of this body.

A second provision that I would have liked to include in the bill would have authorized funding for a broad range of compliance authorities to help enforce the rights of crime victims in the state systems. Senator KENNEDY and I proposed such a program in the Crime Victims Assistance Act, but I was unable to persuade my colleagues to include it in this bill.

There are a variety of remedies for violations of rights that are operating at the State level, all of which have strengths and weaknesses. Some States use more than one approach. Arizona has a non-statutory ombudsman staff position in the Attorney General's office, to receive and investigate victim complaints; a victims' legal assistance project run by a non-profit and the Arizona State University College of Law, and a system of auditing those who receive grants to implement victims' rights. Wisconsin uses a State employee to receive and attempt to resolve victim complaints, as well as a victims' rights board that can formally receive complaints and seek sanctions for violations. Alaska has a State Office of Victims' Rights. South Carolina has an independent victim ombudsman. Connecticut has a State Victim Advocate. Vermont is exploring various options. We do have a Center for Crime Victims Services, which advocates informally for victims and is one of the premier victims' services sites in the country.

Finally, I want to comment on the unusual genesis of this bill, and the extraordinary procedure that has brought us so swiftly to a vote in the Senate. As I mentioned earlier, the Senate was scheduled to begin work this week on the proposed constitutional amendment, S.J. Res. 1. On Wednesday, the Republican leadership moved to invoke cloture on the motion to proceed. I would not have opposed this motion. I voted to proceed to an earlier iteration of this constitutional amendment four years ago, and I would have been prepared to proceed to it again this week. Even given the time this would have taken and the expected outcome, I would not have opposed a debate on the constitutional amendment.

It was under these circumstances that we had so little opportunity to work on crafting the crime victims' statute. I would have liked to have gotten the views of the Office for Victims of Crime and other components of the Department of Justice, for example. Many victims' groups and domestic violence organizations opposed the constitutional amendment, as did many law professors, judges, and prosecutors. I would have liked to hear their views on this statute. I am personally concerned that the statute may not adequately address the special problems raised in domestic violence and abuse situations. If it does not, then we may need to amend it again.

Given the Republican leadership's insistence on proceeding to the constitutional amendment today, there was not as much time as I would have liked to develop the statutory alternative that we vote on today, and no time to hold hearings on it or improve the bill in Committee. Fortunately, however, this is to be a statute, not a constitutional amendment, and it can be modified and improved. We will be able to make it better as we go along.

I commend my good friend, Senator FEINSTEIN, for mediating this consensus legislation. I know that she would have preferred to pass a constitutional amendment. She has made that clear. Nevertheless, she worked hard to produce a bill that we all can support, showing once again that she is first and foremost a legislator who wants to get things done. Due in large part to Senator FEINSTEIN's efforts, we now have an opportunity to advance the cause of victims' rights with strong, practical, bipartisan legislation. I have never doubted Senator FEINSTEIN or Senator KYL's commitment to victims' rights. I am delighted that we have come together to advance that common cause.

My friend and the chairman of the Senate Judiciary Committee, Senator HATCH, is another lead sponsor of this legislation. He and I have worked together on the Judiciary Committee in this area. He has been a tireless advocate for the rights of crime victims, and more generally for fairness in the administration of justice.

I want to thank David Hantman and Steve Cash of Senator FEINSTEIN's staff; Bruce Artim and Grace Becker of Senator HATCH's staff; Steven Higgins of Senator KYL's staff; Robin Toone of Senator KENNEDY's staff; Bob Schiff and Alex Busansky of Senator FEINGOLD's staff; Neil MacBride and Louisa Terrell of Senator BIDEN's staff; Chris Kang of Senator DURBIN's staff; Mark Childress and Jennifer Duck of Senator DASCHLE's staff; and, most especially the members of my own staff for their hard work on this bill over the last several days under extraordinary circumstances and pressures.

I also want to commend and thank the many victims' advocates and service providers in Vermont and across the country who show their dedication every day of the year to crime victims. I want to thank those who work in the area of domestic violence and abuse in particular. I am thankful for their dedication and grateful for their advice and insights over the years.

For more than 20 years I have sponsored and championed legislation to help victims. I have mentioned the recent September 11 Victim Compensation Fund, and I am also proud of such other advancements on behalf of victims as a law to provide assistance to victims of international terrorism, and bills to raise the cap on victims' assistance and compensation programs and to protect the rights of the victims of the Oklahoma City bombing. Today's vote provides us the opportunity to make progress on yet another important measure to address the needs of victims.

I ask unanimous consent that a letter from the National Center for Victims of Crime stating strong support for S. 2329 be printed in the RECORD as well as, for the sake of completeness, a number of editorials that appeared on this subject recently.

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

THE NATIONAL CENTER FOR
VICTIMS OF CRIME,
April 21, 2004.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: The National Center for Victims of Crime strongly supports the Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act. This landmark piece of legislation would provide clear and enforceable legal rights to all direct victims of crime at the federal level. We are pleased to see a long overdue recognition that victims of all crime, violent and nonviolent crime alike, deserve these important rights.

This bill also sets a new standard for federal victims' rights compliance, giving victims and prosecutors the legal standing to assert victims' rights; clearly authorizing victims and the government to seek writs of mandamus to enforce victims' rights; and calling on the Attorney General to develop regulations to promote victims' rights through training, disciplinary sanctions for violations of rights, and the creation of an office to receive and investigate complaints.

By making new funding available to jurisdictions with laws substantially equivalent to those established in this bill, this bill legislation will promote a strengthening of victims' rights across the country. By providing funding to promote victim notification and compliance with victims' rights at the state

level, this bill will improve the implementation of victims' rights nationwide. We urge Congress to go further—to broaden this funding to support other mechanisms to promote compliance, such as state-level victim advocates and other authorities to receive and investigate the complaints of victims, and not limit funding for enforcement to one method.

This legislation represents a real Congressional commitment to improve our nation's response to victims of crime. The National Center for Victims of Crime commends you for your hard work and dedication to this issue, and we urge your colleagues to join you in this effort.

Sincerely,

SUSAN HERMAN.

[From the Washington Times, Apr. 19, 2004]

AMENDMENTITIS

(By Bob Barr)

The circus is back in town. Every 2 years, as we roll around to another grand Olympics of federal, state and local elections, the hopper in Congress begins to fill up with dangerous and unnecessary amendments to our U.S. Constitution.

Few, if any, are for ''great or extraordinary occasions,'' the bar James Madison set for changing our Founding document. In fact, most are either one or two things: a cheap ploy to get votes or an attempt to streamroll through right- or left-wings social policies—think gun control or marriage—that have been unable to get any traction through normal channels of government.

Just this session alone, Congress has seen or will see votes on the Flag Desecration Amendment, the Victims Rights Amendment, the Federal Marriage Amendment, even the Continuity in Government Amendment. Frankly, I would like to see one last constitutional amendment—the No More Amendments Amendment.

In the American political system, the Constitution was meant to operate like people who freeze their credit cards in a block of ice. That is, when faced with supremely important and emotional decisions involving things like the censorship of unpopular ideas or the seizure of firearms, the Constitution makes us walk to the corner and take a time out.

Specifically, we have to get a two-thirds supermajority in both chambers of Congress and then tree-quarters of the States to agree. It is an amazingly onerous process.

The last amendment to the Constitution—the 27th—which set limits on congressional pay, was initially proposed in the States' petitions to the first Constitutional Congress in the 1780s but only started to move in the 1990s. It took more than two centuries to finally earn a spot alongisde free speech and the right not to self-incriminate.

During the Cold War, Americans of conscience like to brag we were a Nation of laws, not men. That is, the main difference between American representative democracy and Soviet tyranny was that the latter's government did not have to abide by a piece of yellowing parchment with some petty clear instructions on what it could or could not do to its citizens.

And, while we have failed to meet those lofty goals on a number of important occasions, for the post part, we have managed to pedal through without too many monumental abridgements of personal liberty. That is why we are still here and they went long ago to a nursing home for evil ideas.

However, we risk betraying that proud history in the political imperative to fiddle with the Constitution. Take, for instance, the Victims Rights Amendment. Pushed by a a mixture of Democrats and Republicans feeling the need to burnish their tough-on-crime badges, the VRA would be a disaster for basic principles of fairness and dispassion in our criminal justice system.

It would guarantee victims of crime—a loosely defined term in the legislation—the ''right'' to notice, to be present and to speak at an array of judicial proceedings, including those dealing with bail, trial, sentencing and parole. It also requires the court to take victims into account in deciding whether to release prisoners or when to schedule a trial.

As with many of these amendments, on its face the measure hits all the right notes. It is tough on crime and soft on victims. It is bipartisan—as a lawmaker, if you oppose it, the other side will accuse you of being ''anti-victim,'' whatever that means. It cost no federal tax dollars (at least, not directly); states have to foot the bill. Finally, it makes for a feel-good, ''I supported such and such'' speech on the campaign trail.

But, as with many of these other amendments, it is seriously flawed. Foremost among its problems is that it will, ironically, obstruct justice. In 2000, Beth Wilkinson, the lead federal prosecutor in the Oklahoma City bombing case, explained in testimony against the amendment that, had it been in force, she might not have successfully sent Timothy McVeigh to death row and Terry Nichols to jail for life.

Their convictions hinged on the testimony of one Michael Fortier, who plea bargained to 12 years in federal prison, for knowing about the impending bombing but not informing authorities, in exchange for taking the witness stand. Had the relatives of the 168 people killed in that horrible tragedy been able to address the courtroom in opposition to Fortier's plea, it could have sunk the whole case.

In addition to these practical concerns, the VRA also threatens basic due process protections and objectivity in the criminal justice system by making it more about vengeance than justice. We trust our adversarial process—which pits zealous advocates against one another in front of a judge and jury—to arrive at the best approximation of the truth in criminal prosecution, which helps ensure the guilty are punished and the innocent go free.

However, when one injects the emotion of a murder victim's family into a bail or a parole hearing, that adversarial system is thrown directly out of whack. The defense counsel then faces an onslaught of vindictiveness that cannot be countered by facts or logic. Justice must remain blindfold to be effective. Otherwise, we will have vigilante posses waiting outside with lit torches and nooses tied every time something really senational goes to trail.

Finally, in an ironic twist that really hammers home the folly of such constitutional amendments, the vast majority of states—and the federal government—already have laws on the books protecting victims and ensuring their interests are not forgotten as their cases progress through the system.

The bottom line with the Victims Rights Amendment and its ilk is that the Constitution should not be co-opted as the tag line for a political attack ad. It is arguable the most sacred secular document in the history of the world, as it has kept humanity's strongest democracy healthy long enough to also make it humanity's oldest democracy.

[From the Chicago Tribune Online Edition, Apr. 18, 2004]

A PHONY PROPOSAL FOR VICTIMS' RIGHTS

THERE IS NO NEED TO TINKER WITH THE CONSTITUTION TO GUARANTEE THE RIGHTS OF VICTIMS—OUR ENTIRE JUDICIAL SYSTEM IS ALREADY SET UP TO DO JUST THAT

(By Steve Chapman)

Americans cherish and revere the Constitution. But often their attitude brings to mind the Broadway show: ''I Love You, You're Perfect, Now Change.'' It seems that the only thing many of them like more than the Constitution is the opportunity to fix its grievous flaws. The latest suggestion for improvement stems from a belief that it short-changes the needs of crime victims.

The entire criminal justice system, of course, could be seen as a giant apparatus set up to vindicate the interests of crime victims. Every year in the United States, we arrest more than 13 million suspects and keep more than 1.4 million offenders in prison. All those police, prosecutors, judges, parole officers and prison guards are there mainly to detect, investigate, prosecute and punish criminals for what they do to their victims.

But critics say the system often abuses the people it's supposed to protect. And they insist that the only way to assure fairness to victims is to enshrine their rights in the Constitution. President Bush has endorsed the amendment. Sen. John Kerry has not.

Americans often have a tendency to see a problem and conclude, ''There oughta be a law.'' In this instance, though, there is already a multitude of laws. Every state has passed legislation to protect victims' rights, and at least 33 have such provisions in their state constitutions.

But Sen. Jon Kyl (R–Ariz.), co-sponsor of the amendment, says these efforts have been a bust. He says one study found that even in states with strong measures in place, 44 percent of victims weren't alerted to the sentencing hearing, and nearly half weren't notified of plea negotiations.

Why don't existing laws do the job? Because, according to Kyl, ''criminal defendants have a plethora of rights that are protected by the Constitution that are applied to exclude victims rights.''

The only way to correct the imbalance is to give victims' rights equal status.

But where are the constitutional provisions that work against victims?

Defendants do have a right to a speedy public trial by jury, to be represented by a lawyer, to avoid self-incrimination and so on. But nothing in the Constitution prevents authorities from informing victims of proceedings, from letting them speak during trials, sentencing and parole hearings, from altering them when an assailant is about to be released, or from requiring criminals to pay restitution. Those are the victims' rights specified in the constitutional amendment, all of which can be (and often are) safeguarded without the drastic step of altering the nation's charter.

Supporters complain that some courts have been so eager to assure the defendant a fair trial that they bar victims from the courtroom. But that happens only before a victim is scheduled to testify, and it's simply meant to prevent victims from tailoring their testimony (intentionally or not) to match what other witnesses say.

By protecting the truth-seeking function of a trial, the practice works to the benefit of victims—who, after all, gain absolutely nothing from sending the wrong person to jail.

If we want to abolish this custom, despite its virtues, we don't need an amendment. Duke University law professor Robert Mosteller says many states allow victims to

be present throughout a trial even if they are going to testify. The practice of excluding victims until they testify, Mosteller notes, ''is generally a matter of statutory or common law'' and ''rarely even approaches constitutional significance.'' It was an issue in Timothy McVeigh's Oklahoma City bombing trial—but in the end, all victims were allowed to attend even if they were expected to appear as witnesses.

Victims' rights, it's true, have not always been enforced. But that's partly because they're a new concept and take time to be fully implemented. And it's partly because they are administered by large, fallible government bureaucracies trying to keep track of a lot of people and information, sometimes without adequate funds.

Amending the Constitution won't make the bureaucracies less fallible. The obvious way to do that is to make them pay for their mistakes by letting victims collect damages when their rights are ignored. But this proposal explicitly forbids that remedy. It's all bark and no bite.

Unless, of course, the opponents hope to curtail the protections we grant to those accused of crimes. The supporters deny that, but they also decline to include a section stating that the amendment wouldn't diminish any existing guarantees.

So maybe the amendment would be an attack on longstanding constitutional rights, or maybe it would be an ineffectual piece of symbolism. Either way, we're better off without it.

[From the Washington Times, April 20, 2004]

WE, THE CLUTTERERS . . .

(By Bruce Fein, special to the Washington Times)

The Senate should balk at cluttering the Constitution when it votes next Friday on a crime victims' rights amendment [VRA].

To forgo the VRA is not to cherish victims' rights less, but to venerate the brevity and accessibility of the Constitution more. Amendments are appropriate only when flexible and adaptable statutes would be insufficient to achieve a compelling objective; or, to protect discrete and insular minorities from political oppression. Neither reason obtains for the VRA.

Crime victims deserve and evoke legal sympathy. Every state and the District of Columbia feature statutes that endow victims with participatory rights in the criminal justice system. Further, 33 states have amended their state constitutions by overwhelming majorities to protect crime victims.

Congress has enacted a cornucopia of victim-friendly statutes since 1982, including a right to restitution, victim impact statements, and a victims' Bill of Rights. According to the latter, federal law enforcement agencies must treat putative victims with fairness and respect; protect them from accused offenders; provide them notice of court proceedings; offer opportunities to attend public sessions under certain conditions and to confer with government prosecutors; and transmit information about the conviction, sentencing, imprisonment, and release of the offender.

A crime victim's authenticity remains in doubt, it should be remembered, unless and until the accused is convicted.

As I previously testified before the Senate Judiciary Committee: ''Crime victims have no difficulty in making their voices heard in the corridors of power; they do not need protection from the majoritarian political process, in contrast with criminal defendants whose popularity characteristically ranks with that of Gen. William Tecumseh Sherman in Atlanta, Ga.'' A recent vignette from Lake County, Mich., corroborates the political hazards of slighting crime victims. In September 2003, a county prosecutor was recalled by voters angry over a lenient plea bargain that had outraged the family of a murder victim: a 23- to 50-year sentence for the killer. The prosecutor's explanation he was seeking to avoid costly trials on a penurious $200,000 annual budget proved unavailing.

VRA proponents insist statutory rights are second-class rights compared with constitutional rights enjoyed by the accused. Statutes fortified by strong pubic sentiments, however, command virtual constitutional sanctity. The 1964 Civil Rights Act, the 1965 Voting Rights Act, the National Labor Relations Act, and the Sherman Antitrust Act are illustrative. As to the latter, the Supreme Court in United States vs. Topco Associates [1972] amplified: ''Antitrust laws in general, and the Sherman Act in particular, are the Magna Carta of free enterprise.''

Moreover, the elevation of victims' rights from a statutory to a constitutional plateau does not guarantee greater effectiveness. The 14th and 15th Amendment rights of blacks, for instance, slept for 80 years in the chambers of prosecutors and judges because of public indifference. In any event, government officers are every bit as bound by oath to obey statutes as to comply with the Constitution.

VRA crusaders speciously argue victims' constitutional rights in criminal prosecutions should reasonably mirror those of the accused. Unlike a putative victim, a criminal suspect confronts the loss of life, liberty, or property and a formidable arsenal of government investigatory and prosecutorial weapons. The victim, moreover, may seek damages from the defendant, including restitution, in parallel civil proceedings a la the O.J. Simpson wrongful death judgments.

History has also demonstrated a government propensity to persecute by overzealous prosecutions. The Declaration of Independence denounced King George III, ''For transporting us beyond the seas to be tried for pretended offenses.''

Former Attorney General and Associate Justice of the Supreme Court, Robert Jackson, worried that prosecutors are routinely tempted to pick a man to indict for personal or ideological reasons, and then to scour the books to pin an offense on him, in lieu of discovering a crime and then searching for the culprit. To blunt the potential for vindictive or wrongful convictions, the Constitution endows defendants with a modest array of rights, for example, proof beyond a reasonable doubt, jury unanimity, and the right to counsel. Crime victims, however, can point to no corresponding history of government oppression. Indeed, they are the contemporary darlings of state legislatures and Congress.

The VRA would also vitiate the truth-finding objective of trials by injecting victim concerns that could undermine the impartiality and reliability of verdicts. The amendment would require judges in jury selection, evidentiary rulings, or jury instructions to ''consider the victim's safety, interest in avoiding unreasonable delay, and just and timely restitution from the offender.'' It would permit victims who intend to testify to avoid sequestration, a customary requirement to foil the tailoring of witness stories. Sequestration has been celebrated by an icon in the law of evidence, however, as ''one of the greatest engines that the skill of man has ever invented for the detection of liars in a court of justice.''

Thus, the biblical Apocrypha relates how Daniel exonerated Susanna of adultery by sequestering two accusing elders and eliciting conflicting answers as to where the alleged crime occurred.

Much additional mischief besets the VRA, but their telling must be forgone as a concession to the shortness of life. The proposed amendment should be smartly defeated.

[From the Washington Post, Apr. 21, 2004]

WRONG ON RIGHTS

The Senate is due to take up a constitutional amendment designed to grant rights in criminal court proceedings to victims of violent crimes. The last time the proposal arose, its sponsors, Sens. Jon Kyl (R–Ariz.) and Dianne Feinstein (D–Calif.), had to yank it back to avoid defeat. But support for the idea has grown. Nobody likes to oppose crime victims, and on its face the amendment's promises seem unobjectionable: ''reasonable and timely notice'' of proceedings; the right of victims to attend those proceedings and to speak at sentencing, clemency and parole hearings; and the right to seek restitution from perpetrators. What harm can there be in placing victims' rights even with the rights of the accused?

Quite a lot, actually. For starters, none of the amendments' terms are defined—including, critically, who counts as a ''victim.'' Is it limited to immediate relatives or can extended family members qualify? Nor does the amendment specify a remedy for violations of victims' rights. In fact, it specifically says that it does not ''authorize any claim for damages.'' So it is unclear how exactly a victim is supposed to take advantage of his rights. The result will be litigation—a lot of it—as victims seek to exercise their new constitutional rights and defendants seek to ensure that victims' rights don't come at the expense of their own.

The fundamental trouble is that victims' rights, if taken seriously, will come at the expense of the rights of the accused. Sometimes a defendant's right to a fair trial cannot be reconciled with a victim's right to speak to the jury. Right now, the victims' rights yield in such cases, as they should. The state, after all, is not seeking to deprive the victim of liberty or, in the extreme case, life. The rights of the accused flow out of the jeopardy in which the state puts them.

Though the criminal justice system's treatment of victims has improved, it could and should be better. But it would be a profound error to place such obligations on the same plane as the Constitution's essential protections against unchecked government power.

Mr. DEWINE. Mr. President, I rise today in support of the Crime Victims' Rights Act. As a former county prosecuting attorney, this is an issue about which I feel very strongly. All too often, our criminal justice system overlooks the victims of crime in efforts to ensure the legitimate rights of accused defendants.

Crime victims simply have not been given the equal footing that they deserve. From start to finish, the legal system sometimes can be a terrible ordeal for victims—a bureaucratic nightmare that seems to and in fact many times does go on and on and on.

We substantially protect the rights of defendants, as well we should. We ensure that they have every reasonable benefit—and that is good—so as to ensure the acquittal of the innocent. But, in the process, I believe that many times, we don't give the victims of crime the rights that they, too, deserve. When I was a county prosecutor in Greene County, OH in the 1970s I saw too many crime victims—people who

had already been hurt—hurt a second time by a callous legal system. That is why I did everything that I could to protect the rights of those victims. Our bottom line has to be this: To be victimized once by crime is already once too often. To be victimized yet again by an uncaring judicial system is totally unacceptable.

Accordingly, I am pleased to cosponsor this bipartisan legislation that will afford these victims, the fundamental right to participate in the criminal justice system. It just makes good sense for the innocent victim of a crime to be given the right to know if his or her assailant is released or escapes from prison. It is simply fairness to recognize a crime victim's right to reasonable notice of public proceedings involving the crime; the right to not be excluded from such public proceedings; and the right to be heard at the public release, plea, sentencing, reprieve, and pardon proceedings involving that victim's assailant. It's about time that we guarantee crime victims their rights to court decisions that duly consider their safety, their rights to have the courts avoid unreasonable delay in adjudicating those charged with harming them, and their rights to just and timely restitution from their offenders. This legislation is about victims. This legislation is about working to keep victims safe from further harm. This legislation is about keeping their concerns at the forefront.

When I was Green County prosecuting attorney, I had seen the victims of murder and other terrible crimes. I interviewed people who had been abused, assaulted, and raped. I learned a lot from talking to these innocent people. I learned that we have to make the crime victim a full participant—not a forgotten person, not a neglected person—in the criminal justice system.

That is why I cosponsored this bipartisan legislation. It is designed to help guarantee that the victims of crime have access to our criminal justice system. It is time to stop treating the victims like they are the criminals. Let's move the legitimate concerns of victims toward center stage in our criminal justice system and finally provide these innocent victims with the rights they deserve.

Mr. DURBIN. Mr. President, I rise today in support of the Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act.

This week is National Crime Victims' Rights Week—a time to recognize the impact of crime and the rights and needs of victims. In 2002, there were 23 million criminal victimizations in the United States, and many of these crime victims feels as if the criminal justice system has wronged them. These people were innocent victims, but they feel deprived of the fundamental need to participate in the process of bringing the accused to justice.

I support crime victims' rights, and I believed that every effort should be made to ensure that crime victims are not victimized a second time by the criminal justice system. At the same time, I agree with James Madison, who wrote that the United States Constitution should be amended only on ''great and extraordinary occasions,'' and I am reluctant to amend our Constitution for only the 18th time since the adoption of the Bills of Rights.

This is why I am proud to be an original cosponsor of the Crime Victims' Rights Act, which reaches all of the goals that the proposed constitutional amendment sought to achieve, by providing crime victims with the same rights, including the following: No. 1, the right to notice of any public proceeding involving the crime or of any release or escape of the accused; No. 2 the right not to be excluded from any such public proceeding; No. 3, the right to be reasonably heard at any public proceeding involving release, plea, or sentencing; No. 4, the right to full and timely restitution; and No. 5, the right to proceedings free from unreasonably delay.

By enacting legislation rather than amending the Constitution, our approach today also addresses my concerns regarding the rights of the accused. The premise of criminal justice in America is innocence until proven guilty, and our Constitution therefore guarantees certain protections to the accused. These include the Fifth Amendment protection against double jeopardy, as well as the Sixth Amendment rights to a speedy trial, the assistance of counsel, and an impartial jury.

Although these protections for the accused sometimes are painful for us to give, they are absolutely critical to our criminal justice system. When the victim and the accused walk into the courtroom, both are innocent in the eyes of the law, but when the trial begins, it is the defendant's life and liberty that are at stake.

During the Judiciary Committee debate on the proposed constitutional amendment regarding victims' rights, I offered an amendment that would have ensured that the rights of the accused as guaranteed under the Constitution would not be diminished or denied. However, this language is unnecessary in the bill we are debating today, because rights provided in a statute can not supercede those guaranteed by the Constitution.

For example, I believe this statute would allow courts to protect defendants from possible violations of due process and to preserve the accused's right to an impartial jury, by excluding victims from a public proceeding if the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at trial.

This statutory approach also provides Congress with the flexibility to modify this legislation if we find it is not perfect.

I would like to commend Senators FEINSTEIN and KYL for their efforts to provide rights to crime victims and for introducing this statutory alternative. I am pleased to join them in this effort.

Mr. KENNEDY. Mr. President, I strongly support this bill to provide enforceable rights to victims of crime, and I urge the Senate to approve it.

For too long, our criminal justice system has neglected the hundreds of thousands of victims of crime whose lives are shattered by violence or other crime each year. Victims deserve better from our criminal justice system.

Too often, the current system does not provide adequate relief for victims of crime. They are not given basic information about their case—such as notice of a defendant's arrest and bail status, the schedule of various court proceedings, and the terms of imprisonment. Victims deserve to know about their case. They deserve to know when their assailants are being considered for bail or parole or adjustments of their sentences. They certainly deserve to know when offenders are released from prison.

Since 1997, Senator LEAHY and I have sponsored legislation to provide enhanced protections for victims of violent or non-violent crimes and establish an effective way to implement and enforce these protections. Our legislation is designed to give victims a greater voice in the prosecution of the criminals who injured them and their families, fill existing gaps in Federal criminal law, guarantee that victims of crime receive fair treatment and the respect they deserve, and achieve these goals in a way that respects the efforts of the States to protect victims in ways appropriate to each State's unique needs.

I am pleased to join Senator KYLE and Senator FEINSTEIN, who are the lead sponsors of the proposed Victims' Rights Constitutional Amendment, in moving forward on victims' rights legislation now. Our bill is called the ''Scott Campbell, Stephanie Roper, Wendy Preston, Lourana Gillis and Nila Lynn Crime Victims' Rights Act,'' and is named in honor of five persons who were victims of crime. Our bill provides victims with a number of important rights, including the right to receive notice of public proceedings; to receive notice of the release or escape of the accused; to attend and be heard at proceedings involving release, plea, or sentencing; to confer with the government's attorney; and to receive full and timely restitution as provided by law. The bill also provides for the enforcement of these rights, by directing government officials to notify victims of their rights, requiring courts to grant these rights to victims, and giving standing to both prosecutors and victims or their legal representatives to assert the rights at trial and on appeal.

The legislation will protect all victims of crime, including victims of identity theft, personal property theft, fraud, embezzlement, vandalism, and other non-violent offenses. The National Center for Victims of Crime has

emphasized the great importance of including protections for victims of nonviolent crime. Our legislation does so, and I commend the Center for its leadership on this important aspect of the issue.

Our Victims' Rights Act also directs the Attorney General to act within a year to issue regulations to enforce the rights of crime victims and ensure compliance by all relevant officials. The bill strengthens victims' rights at the Federal, State, and local levels by authorizing the use of Federal funds to establish programs to promote compliance and develop state-of-the-art systems for notifying victims of important dates and developments in their cases.

Once this bill is enacted into law, we intend to monitor its implementation by the Justice Department, other law enforcement and criminal justice agencies, and the courts, so that we can take appropriate action, if necessary, to ensure that the victims' rights are protected, and also ensure that the effective functioning of the law enforcement and criminal justice system is not impaired. I commend my colleagues for their leadership in making this legislation possible, and I urge the Senate approve it. We know that victims of crime have been waiting too long for our action, and hopefully this long-needed measure is finally on the fast track for enactment into law.

Mr. SMITH. Mr. President, I rise to speak about the Crime Victims' Rights Act.

America is a country ruled by law and not by individuals. For that reason, our criminal justice system serves as a beacon of light for many who live in the shadow of tyranny. Nowhere is this better demonstrated than those rights of the accused protected by the U.S. Constitution. A defendant has the right to due process under law, the right to a speedy trial, the right to counsel, the right against self-incrimination, the right to confront witnesses as well as a host of other protections. These constitutional rights aim to protect the innocent and punish only the guilty. No American should be wrongly incarcerated and denied the most basic liberties.

While the Constitution provides a panoply of rights for the accused, it does not guarantee any rights to crime victims. Victims do not have the right to be present during prosecution. Victims do not have the right to be informed of the defendant's hearing. They do not have the right to be heard at sentencing or at parole hearings. Victims have no rights to restitution or notification even if they may be endangered by the release of their attacker.

To maintain the integrity of our judicial system, a careful balance must be struck between the rights of the accused and the rights of victims. Unfortunately, the scales of justice have been tilted. As a result, 32 States have enacted constitutional amendments to provide some protections for victims. Today, I am proud to have joined my colleagues in sponsoring and voting in favor of the Crime Victims' Rights Act which would extend rights to victims of federal crimes as well. Nationally, this sends a clear message to victims that they will finally be given a voice in the Federal criminal process.

I also want to take this opportunity to recognize the leaders of the victim's rights movement in my home state. Established in 2000, the National Crime Victim Law Institute has been committed to the enforcement and protection of victims' rights in the criminal justice system. While there has been a flood of legislation at the State level on victims' rights, there has been a dearth of academic attention paid to this area of the law. The National Crime Victim Law Institute, at the Lewis and Clark School, is one of the first academic institutions to undertake a focused effort to study and enhance the effectiveness of victim rights laws. The Institute's Executive Director, Doug BeLoof, has authored Victims in Criminal Procedure, the first casebook to be published in this area of law.

Along with this important legal scholarship, passage of this legislation is an important step in the fight to protect victims' rights. I look forward to President Bush signing this legislation into law.

Mr. LEAHY. Madam President, I do not see others seeking time so I reserve the remainder of my time 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. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, it is my understanding Senator LEAHY still has time remaining under his control.

The PRESIDING OFFICER. That is correct.

Mr. REID. How much time?

The PRESIDING OFFICER. The Senator has 19.5 minutes.

Mr. REID. Mr. President, using Senator LEAHY's time, I will proceed.

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

PATRIOT ACT AND SENATOR KERRY

Mr. REID. Mr. President, during this lull, prior to the vote on this legislation that has been changed from a constitutional amendment to a statute, I would like to take a few minutes hopefully to clear some of the confusion about the record of my colleague, the Senator from Massachusetts, JOHN KERRY. This relates to the PATRIOT Act.

First of all, everyone should understand JOHN KERRY voted for the PATRIOT Act. This, of course, is a man who volunteered to fight for our country in the jungles of Vietnam. He risked his life to keep America safe. He was wounded on three separate occasions, received two medals for heroism for his acts above and beyond the call of duty. These were all in an effort to keep our Nation safe and strong.

Like most of us who voted for the PATRIOT Act, Senator KERRY believed it gave law enforcement officials essential tools they needed in the war against terror.

He not only voted for the PATRIOT Act, he actually authored parts of it. Senator KERRY helped draft the money-laundering provisions of the PATRIOT Act. He believes that provision should be strengthened to include nonbank institutions and increase funding for information gathering and sharing. These provisions have helped choke financial support to terrorist groups.

When Congress enacted the PATRIOT Act we gave it a sunset clause so we, the Senate, the Congress, and the American people, could see how it worked. We understood we were giving the Government unprecedented power and we would want to come back later and fine-tune the balance between the power of Government and the personal rights of citizens.

Some parts of the PATRIOT Act will expire in approximately 20 months. Frankly, with all the important issues and business this Senate has yet to address, I don't understand why we have had a series of speeches on the Senate floor about making permanent the PATRIOT Act. It will not expire, as I have indicated, for 20 more months. At some point we will have to decide which parts of the PATRIOT Act should be reviewed, renewed, expanded, or in some way limited in some instances.

Senator KERRY wants to extend more than 95 percent of the provisions of the PATRIOT Act. That is, so everyone is very clear, Senator KERRY believes 95 percent of the PATRIOT Act should remain as it is. But keeping America strong, as Senator KERRY believes, also means protecting our individual rights and privacy. Keeping America free means keeping a rein on the power of Government, so Senator KERRY does support some adjustments to the PATRIOT Act along with a number of other Senators, including the ''liberals'' CRAIG and SUNUNU. I say that facetiously because Senator CRAIG and SUNUNU are anything other than progressives.

I am also a cosponsor of the amendment Senator KERRY suggests should make adjustments to this act.

Nobody has ever accused any of these Senators—Senators CRAIG, SUNUNU, or KERRY—of being soft on terrorism. They are resolute in their commitment to protect our Nation from terror. But they are also resolute in their commitment to protect our individual rights and our freedom—just like JOHN KERRY.

Senator KERRY believes we need to improve the PATRIOT Act by making some changes in the provisions of a

couple of wiretaps, sneak-and-peek warrants, and the seizure of business and library records.

He isn't alone. The House of Representatives voted 309–118 to ban funds for these so-called ''sneak and peek'' searches, which allow government agents to surreptitiously search the homes of citizens, without ever notifying them.

Senator KERRY wants to strengthen the Patriot Act in other areas, by adding new legal and organizational tools to fight terror.

He has been and will be tough on terror, and he will keep America safe. He knows that the Patriot Act is just one of the many weapons we need in that fight against terror.

Senator KERRY understands that we need to improve the lines of communication between different intelligence agencies, and between federal and local officials. He believes that appropriate state and local authorities should have immediate access to national terrorist lists and 24-hour operations center should be created to link local and federal law enforcement. It is called communication.

Senator KERRY has called for tighter protection of chemical factories that could be targeted by terrorists. I am a cosponsor of that legislation. Bowing to the chemical industry, the Bush administration has opposed common sense measures to improve security of 123 chemical plants where the EPA says a terrorist attack could kill or injure one million people. JOHN KERRY knows that we have to do a better job protecting these potential targets.

Senator KERRY understands that we must give our police, firefighters and other first responders the equipment and training they need to respond to terrorist attacks. Right now, they aren't getting everything they need, and the result could be tragic.

Finally, Senator KERRY knows that we aren't doing everything we should to keep our seaports safe. Ninety five percent of our trade outside North America moves by sea, and most of that is concentrated in a handful of ports. Senator KERRY understands that our economy and our national security both depend on keeping our ports safe. We need to develop security standards for our ports, invest in a system of container security and provide more customs inspectors.

These are common sense measures to protect our homeland. Every day that we delay, we leave ourselves open to potential acts of terrorism.

I hope my colleagues won't impugn Senator KERRY's commitment to national security just because he is concerned about safeguarding our personal rights and privacy.

I understand we don't all agree on the need for measures like ''sneak and peek'' searches of American citizens or improving security at our seaports.

Let's debate those differences—but let us never suggest that any Member of this body is not committed to keeping America strong and safe.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Senator from New Mexico, Senator DOMENICI, be added as a cosponsor of the legislation before us.

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

Mrs. FEINSTEIN. Mr. President, I will say a few words in conclusion to my remarks.

I believe the Senator from Arizona, Senator KYL, will be coming back to the floor to make a small technical modification to the amendment since questions have been developed and they can be easily taken care of. I believe he will do that. Otherwise, I think everyone who is going to speak on this has spoken.

I would like to end by saying how grateful I am for this day. This is an important day for many of us who care about victims' rights—I think every Member of this Senate—because for the first time we have a strong and comprehensive measure to be able to achieve a compendium of victims' rights. That compendium will give victims access to the criminal justice system so they may retain their dignity; so they have an opportunity to know when there is a trial and be present at the trial; to make statements if there is a public proceeding with respect to a plea bargain; to be there to make a statement; to receive restitution, if offered by a judge; to know when their attacker is released from jail or prison—not too much, but certain basic, elemental rights for anyone who has either been the victim of or has been dramatically affected by a crime.

I am very proud of the work on this. I have worked with Senator KYL for a long time, and now with Senators HATCH and LEAHY as well.

I thank everybody who has been involved.

I particularly would like to thank my staff, Steven Cash and Dave Hantman, who over the years I think have grown more determined to get this job done.

I am hopeful we will have a unanimous vote in this body, that the bill will be accepted by the House, and we will be able to say to victims all across this country there is a Federal statute with a remedy and a method of enforcement that will guarantee the very basic rights in Federal crimes; and also the funding to be able to go out and secure some of those same rights under State law.

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

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank the distinguished Senator from California for her excellent work, and also the distinguished Senator from Arizona for his excellent work on this. They have worked on this year after year until we have finally reached this point where I believe we can get a bill through the Congress even though it is almost impossible to get a constitutional amendment through the Congress on this very important subject.

I rise today in support of S. 2329, The Crime Victims' Rights Act. The issue addressed by this legislation—protecting the rights of victims of crime—is one of utmost importance to the American people.

At the outset, let me commend the efforts of Senators KYL and FEINSTEIN, who have worked tirelessly since 1996 to try to get the crime victims' rights constitutional amendment passed.

No one has worked harder than these two Senators in trying to protect victims' rights. Over the last 8 years, they have met with countless victims, listened to their tragic stories, held hearings, drafted and redrafted constitutional language, and consulted with academics, outside experts and governmental officials to make sure they got it just right.

While I know their preference is to pass a constitutional amendment—and that would have been my preference as well—they have now prudently opted to pursue a statutory remedy.

I am especially pleased that the ranking minority member of the Judiciary Committee, Senator LEAHY, is joining us in this initiative.

When we last debated victims' rights, it was in April of 2000. There can be no question that the world has irrevocably changed since then.

Four years ago, many could not truly appreciate what it means to be a victim of violence. Today, in the post-9/11 era, it is impossible not to empathize with victims. I am sure that none of us will forget the image of planes crashing into the World Trade Center. None of us will forget the image of victims jumping out of windows to avoid the flames that were creeping up the buildings. None of us will forget the images of two of the tallest buildings in the world crumbling to the ground like a house of cards with the victims trapped underneath the rubble. And none of us will forget the gaping hole in the side of the Pentagon and the grief of the families of those that died that day.

In that single day, nearly 3,000 victims died in New York City and Washington, D.C. Yet as horrific as that statistic is, it cannot be compared to the more than five million violent crimes that are committed in the United States every year. Yet the victims of these violent crimes, as well as their families and loved ones, continue to suffer in silence. Some of them are not able to obtain notice of criminal proceedings; they are not permitted to remain in the courtroom while the trial is ongoing regardless of whether they are expected to be called as a potential government witness. That is why I am an original cosponsor of S. 2329.

Let me give a couple of examples of why we need this legislation.

On December 2, 1998, Jeffrey Weller, who was only 23 years old, was murdered by his childhood friend. The

friend showed up at Jeff's home, where he lived with his new wife of 2 months. While the two men were sitting in a car, the murderer attacked Jeff with a knife. Jeff managed to get out of the car and run, but was shot once in the back. The man then shot Jeff again at point-blank range in the head. Although the defendant was arrested, convicted and sentenced to 10 years in prison, he was released after serving only 4 years. Jeff's family was denied a restraining order against the killer and was told to contact local law enforcement if he comes on the property. In January 2002, the killer kidnapped and murdered Jeff's 5-year old son and committed suicide. It is for families like the Wellers that we need to pass this bill—and there are so many. Yet, S. 2329 gives victims the right to be reasonably protected from the accused.

In my home state of Utah, Pam Kouris lost her 11-year old son, Michael, when he was hit by a car while riding his bicycle. The negligent driver was a police officer who was under the influence of pain killers, muscle relaxers and Valium. He ultimately pled guilty but he was not sentenced until 5½ years after Michael's death and he received probation. It is for people like Pam that we are passing this legislation to protect her right to proceedings free from unreasonable delay.

In addition to those rights, the bill also establishes other fundamental rights for victims, including the right to reasonable notice of public criminal proceedings, the right not to be excluded from those proceedings, and the right to be heard reasonably when a court is considering a criminal's release, plea or sentence. The bill also guarantees victims the right to confer with a Government attorney, the right to full and timely restitution, the right to proceedings free from unreasonable delay, and importantly, the right to be treated with fairness and with respect for the victim's dignity and privacy.

The bill also directs the Department of Justice to promulgate regulations to enforce these rights and to create an administrative authority to receive and investigate complaints relating to the violation of the rights of crime victims. This administrative remedy creates a framework to quickly enforce victims' rights.

Moreover, the bill provides that victims will have standing to sue in Federal court if they are wrongly denied these rights. For those who may be concerned that this bill might lead to new tort causes of action, let me assure you, that victims are not seeking to sue the government and get rich. All the victims want is a chance to participate in the criminal justice process. Accordingly, the bill states that there will be no cause of action for damages.

Public support for victims' rights protection is very strong. All 50 states have some form of victims' rights measures at a statutory or court-based level and 33 states have passed state constitutional amendments to protect victims' rights.

In sum, this bill has strong bipartisan support and I strongly urge my colleagues on both sides of the aisle to vote for this important legislation.

It is time to quit playing around and get this done. It is time to do what is right. The constitutional amendment itself, had we been able to bring that up, has been criticized because people around here say we should never amend the Constitution, it is perfect as it is.

One reason some members want to amend the Constitution is to get it back to where it really was. In other words, we have courts that have gone way beyond the pale and have amended the Constitution by judicial fiat. Most of these constitutional amendments, I have found through the years, have been to get the Constitution back where it really belongs, away from rogue judges just deciding on their own to amend the Constitution because they are in a position that some believe, as Federal judges, is the closest thing to God in this life. Frankly, some of them take advantage of that.

In the process, we wish we could get back to where the people rule and where the Constitution was before they changed it by judicial fiat. There are a number of reasons why judicial fiat has changed the laws with regard to victims' rights. Frankly, this bill will get us back to a point where we will be making headway on victims' rights and protecting the rights of those who have been suffering far too long.

I compliment my two dear friends and colleagues on the Judiciary Committee and others in this Congress who have worked so hard to see this come to fruition.

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. KYL. 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. KYL. I ask unanimous consent Senator KOHL be added as a cosponsor to the legislation pending.

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

Mr. KYL. Mr. President, notwithstanding the previous order, I ask the technical amendment which is at the desk be considered and agreed to and—I withhold on that request for a moment.

The PRESIDING OFFICER. The request is withheld.

Mr. REID. I apologize to my friend from Arizona. It is certainly not his fault. I told him it had all been cleared. I thought it had. Senator FEINSTEIN has cleared it; obviously, there are a couple more people.

Mr. KYL. I withdraw the request until it is clear.

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. KYL. 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. 3047

Mr. KYL. Notwithstanding the previous order, I ask the technical amendment at the desk be considered and agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 3047) was agreed to, as follows:

On page 7, line 24, strike the first period and insert the following: '', subject to appropriation.''.

On page 10, line 20, strike the first period and insert the following: '', subject to appropriation.''.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, how much time remains on this matter now before the Senate?

The PRESIDING OFFICER. The Senator from Utah has 16 minutes, the Senator from Vermont, 12.

Mr. REID. Mr. President, I yield back the time of the Senator from Vermont.

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

Mr. KYL. Mr. President, I ask unanimous consent that Senator SHELBY be added as a cosponsor of the legislation.

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

Mr. KYL. Mr. President, on behalf of Senator HATCH, I yield back the time that he has remaining.

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

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—96

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

NAYS—1

Hollings

NOT VOTING—3

Campbell	Kerry	Specter

The bill (S. 2329), as amended, was passed, as follows:

S. 2329

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 ''Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act''.

SEC. 2. CRIME VICTIMS' RIGHTS.

(a) AMENDMENT TO TITLE 18.—Part II of title 18, United States Code, is amended by adding at the end the following:

''CHAPTER 237—CRIME VICTIMS' RIGHTS

''Sec.
''3771. Crime victims' rights.

''§ 3771. Crime victims' rights

''(a) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

''(1) The right to be reasonably protected from the accused.

''(2) The right to reasonable, accurate, and timely notice of any public proceeding involving the crime or of any release or escape of the accused.

''(3) The right not to be excluded from any such public proceeding.

''(4) The right to be reasonably heard at any public proceeding involving release, plea, or sentencing.

''(5) The right to confer with the attorney for the Government in the case.

''(6) The right to full and timely restitution as provided in law.

''(7) The right to proceedings free from unreasonable delay.

''(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

''(b) RIGHTS AFFORDED.—In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

''(c) BEST EFFORTS TO ACCORD RIGHTS.—

''(1) GOVERNMENT.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

''(2) CONFLICT.—In the event of any material conflict of interest between the prosecutor and the crime victim, the prosecutor shall advise the crime victim of the conflict and take reasonable steps to direct the crime victim to the appropriate legal referral, legal assistance, or legal aid agency.

''(3) NOTICE.—Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

''(d) ENFORCEMENT AND LIMITATIONS.—

''(1) RIGHTS.—The crime victim, the crime victim's lawful representative, and the attorney for the Government may assert the rights established in this chapter. A person accused of the crime may not obtain any form of relief under this chapter.

''(2) MULTIPLE CRIME VICTIMS.—In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights contained in this chapter, the court shall fashion a procedure to give effect to this chapter.

''(3) WRIT OF MANDAMUS.—If a Federal court denies any right of a crime victim under this chapter or under the Federal Rules of Criminal Procedure, the Government or the crime victim may apply for a writ of mandamus to the appropriate court of appeals. The court of appeals shall take up and decide such application forthwith and shall order such relief as may be necessary to protect the crime victim's ability to exercise the rights.

''(4) ERROR.—In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

''(5) NEW TRIAL.—In no case shall a failure to afford a right under this chapter provide grounds for a new trial.

''(6) NO CAUSE OF ACTION.—Nothing in this chapter shall be construed to authorize a cause of action for damages.

''(e) DEFINITIONS.—For the purposes of this chapter, the term 'crime victim' means a person directly and proximately harmed as a result of the commission of a Federal offense. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.

''(f) PROCEDURES TO PROMOTE COMPLIANCE.—

''(1) REGULATIONS.—Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

''(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

''(A) establish an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

''(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

''(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

''(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.''.

(b) TABLE OF CHAPTERS.—The table of chapters for part II of title 18, United States Code, is amended by inserting at the end the following:

''237. Crime victims' rights ..... 3771''.

(c) REPEAL.—Section 502 of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10606) is repealed.

SEC. 3. INCREASED RESOURCES FOR ENFORCEMENT OF CRIME VICTIMS' RIGHTS.

(a) CRIME VICTIMS LEGAL ASSISTANCE GRANTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404C the following:

''SEC. 1404D. CRIME VICTIMS LEGAL ASSISTANCE GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public and private entities, to develop, establish, and maintain programs for the enforcement of crime victims' rights as provided in law.

''(b) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d) of the Victims of Crime Act of 1984, there are authorized to be appropriated to carry out this Act—

(1) $2,000,000 for fiscal year 2005 and $5,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 to United States Attorneys Offices for Victim/Witnesses Assistance Programs;

(2) $2,000,000 for fiscal year 2005 and $5,000,000 in each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for enhancement of the Victim Notification System;

(3) $300,000 in fiscal year 2005 and $500,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for staff to administer the appropriation for the support of the National Crime Victim Law Institute or other organizations as designated under paragraph (4);

(4) $7,000,000 for fiscal year 2005 and $11,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of—

(A) the National Crime Victim Law Institute and the establishment and operation of the Institute's programs to provide counsel

for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments that have laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code; or

(B) other organizations substantially similar to that organization as determined by the Director of the Office for Victims of Crime.

(c) INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404D the following:

"SEC. 1404E. CRIME VICTIMS NOTIFICATION GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public or private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal proceedings at issue in a timely and efficient manner, provided that the jurisdiction has laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code.

''(b) INTEGRATION OF SYSTEMS.—Systems developed and implemented under this section may be integrated with existing case management systems operated by the recipient of the grant.

''(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d), there are authorized to be appropriated to carry out this section—

''(1) $5,000,000 for fiscal year 2005; and

''(2) $5,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009.

''(d) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

SEC. 4. REPORTS.

(a) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Administrative Office of the United States Courts, for each Federal court, shall report to Congress the number of times that a right established in chapter 237 of title 18, United States Code, is asserted in a criminal case and the relief requested is denied and, with respect to each such denial, the reason for such denial, as well as the number of times a mandamus action is brought pursuant to chapter 237 of title 18, and the result reached.

(b) GENERAL ACCOUNTING OFFICE.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect and efficacy of the implementation of the amendments made by this Act on the treatment of crime victims in the Federal system.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees a report containing the results of the study conducted under subsection (a).

Mr. FRIST. Mr. President, I want to take a moment to comment on the passage today of the Crime Victims' Rights Act. I am gratified by the overwhelming, bipartisan support for this crucial legislation.

I especially thank the Senator from Arizona, JON KYL, and the Senator from California, DIANNE FEINSTEIN, for their labor over the past several years on behalf of a constitutional amendment, and for their efforts over the past days to write into Federal law appropriate protections for victims of crime across the country. Without their dedication we would not have this victory.

While a constitutional amendment is preferable, this victims' rights Federal statute represents a significant improvement over the status quo. It ensures that crime victims have the right to fair treatment in the criminal justice system. It will give crime victims new legal standing to enforce their rights in court.

Too often, victims are shut out of the criminal justice process. They aren't informed of hearings, plea deals, trial dates and sentencing, or of parole hearings once their attacker is convicted.

The system rightly strives to protect the rights of defendants. But too often it overlooks the rights of the victims.

Take, for example, the case of Jeanne Brykalski of Knoxville, TN. Nine years ago, Jeanne lost both of her parents in a double homicide.

It was a Friday night, Jeanne's parents, Lester and Carol Dotts, went out for dinner. When they returned, they surprised three burglars in the act of looting their home.

Jeanne's mother was shot seven times, once at point-blank range in the head. Her father was shot six times, first in the neck and then repeatedly while he lay crumpled on the floor. The assailants seized Jeanne's mother's purse. And in a final grisly act, stole her father's wallet from his back pocket as he lay dying.

Jeanne's parents would have celebrated their 45th anniversary that summer.

She tells my office:

Something like this you never get over. At first you don't sleep. You can't sleep, because when you close your eyes, horrible images flood your mind. When you finally can sleep, that's when the nightmares come.

Jeanne found out about the first of the three perpetrators' public hearings on the front page of the local paper. As Jeanne recounts it, one morning before work, her husband went outside to fetch the paper from the delivery box. He came back in and tossed it on the kitchen table, telling her, ''You'll want to read this.''

Says Jeanne:

I saw the headline, and of course had to keep reading. And then I found out for the first time the gruesome details of how my parents were murdered. I completely fell apart. And I still had to go to work that day.

Jeanne says it took a long time for the justice system to acknowledge her need to be a part of the process. In fact, on three occasions, she showed up for hearings that she was never told were canceled. The youngest of the perpetrators was plea bargained without Jeanne and her husband being informed.

Her experience with the system led her to become a volunteer for the East Tennessee Victims' Rights Task Force.

Says Jeanne:

All we want is equality and fair play in the courtroom. We want to be treated with courtesy and respect. I don't think that's too much to ask for.

Mr. President, nor do I. And that is why I strongly support the Crime Victims' Rights Act and look forward to getting this bill to the President's desk.

My home State of Tennessee has a Victims Bill of Rights. It was passed in November of 1998.

Anna Whalley, clinical coordinator of the Shelby County Crime Victims Center, tells my office that the law has improved the status of victims in the Tennessee justice system. Judges are now getting used to seeing victims in their courtrooms and are making their courtrooms more comfortable and accommodating.

Because the Tennessee law does not provide funding, however, victims continue to fall through the cracks. There simply is not enough money to stay on top of all of the cases and keep victims informed throughout the judicial process.

The Crime Victims' Rights Act wisely addresses this problem. It provides legal assistance grants to help local law enforcement agencies promote victims' rights.

It also authorizes over $97 million over the next 5 years to broadly carry out the legislation's goals.

Mr. President, we are not all the way there. Our ultimate goal is to pass a victims' rights constitutional amendment. But this legislation represents a significant leap forward.

I thank my colleagues for their support today.

As we all agree, victims have rights, too.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate now proceed to 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.

The Senator from New Mexico.

Mr. REID. Mr. President, will the Senator from New Mexico yield to me for a question?

Mr. DOMENICI. Yes, I yield.

Mr. REID. Senator LANDRIEU has been waiting for the vote to end. She has to pick up her children, but she first wants to speak about her children for a couple of minutes. Would the Senator allow her 2 minutes prior to beginning his speech?

Mr. DOMENICI. Of course.

Ms. LANDRIEU. I thank the Senator from New Mexico, and I thank my colleague from Nevada.

TAKE OUR DAUGHTERS AND SONS TO WORK DAY

Ms. LANDRIEU. As a wonderful Senator from New Mexico, and also as a father of many girls and a grandfather, I

know the Senator can appreciate the day we are celebrating today, which is Take Our Daughters and Sons to Work Day. We have literally hundreds of young people who are in the Chamber today. They have been around the Senate and the House celebrating this very special day, seeing their parents at work in the Senate and in the Capitol, not only as elected officials but as the staffers and support staff.

I have 20 young ladies with me today, nieces and friends from Louisiana, from Alabama, and from the Washington area. I am going to submit all of their names for the RECORD to show that they spent a day working in the Senate with me and with some of the other Senators and have seen firsthand the work that goes on.

I want to acknowledge MS Magazine Foundation that started Take Our Daughters and Sons to Work Day to thank them for organizing this effort where there are thousands, maybe perhaps millions, of young people who have taken a day out of their school work to go to the various places where Americans are working to contribute to making this country of ours a better country and this world a better place.

As we celebrate Earth Day today, which is also very important as we focus on the environment, I wanted to acknowledge this day. I thank my friend from New Mexico for giving me this time and I ask unanimous consent to have printed in the RECORD the names of these young ladies and thank them for being a part of this special day and taking their time to come and learn about the workings of the Senate.

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

From St. Richards School: Mary Claire Logue and Catherine Logue, Monroe, LA; from St. Dominic School: Erica Sensenbrenner, New Orleans, LA; from St Ignatius School: Lindsey Seiter, Mobile, AL; from Tchefuncte Middle School: Lauren Cook, New Orleans, LA; from Louise McGehee School: Meredith Chehardy, New Orleans, LA; from Spring Hill Elementary School: Caroline Hudson, Washington, DC; from Georgetown Day: Rachel Jerome, Washington, DC; from Georgetown Day: Hayley Gray, McLean, VA; from St Scholastica Academy Trinity School: Gabrielle Klein and Stephanie Harkness, Mandeville, LA; from Our Lady of the Lake School: Elise Ganacheaux, New Orleans, LA; from St. Catherine of Sienna School: Sarah Parent, New Orleans, LA; from Isidore Newman School: Jordan Warshauer, New Orleans, LA; from Louise McGehee School: Carol Irene Gelderman, New Orleans, LA; from Louise McGehee School: Catherine Cochran, New Orleans, LA; from Jackson Academy: Storey Wilson, Baton Rouge, LA; from Bradley Hills Elementary: Hannah Sherman, Bethesda, MD; from Pyle Middle School: Casey Thevenot, Washington, DC.

The PRESIDING OFFICER. The Senator from New Mexico.

DOMESTIC NATURAL GAS PRODUCTION

Mr. DOMENICI. Mr. President, I have up to 10 minutes, but I do not believe I will use that, if anybody is wondering.

I rise to speak about a disaster that has occurred within the last 24 hours in the country of North Korea. We now have on the wire service recognition of the fact that there was a train wreck in North Korea where two trains ran into each other. It appears that between 1,000 and 3,000 people were killed. One report says 1,000 and another report says 3,000. In the meantime, the North Koreans have cut off the telephone lines to the area and have closed the border, so considering the nature of the country, I do not know when we will find out how many.

The reason I rose to talk about it is because the substances that we have been told were in those trains do not come close to the explosive power of liquefied natural gas. They are some kind of a liquefied petroleum and another product like propane, and it must have been sufficient power for this to ignite and blow up.

Why would I bring this subject up on the Senate floor? Well, I say to my colleagues, the Nation we live in has been on such an absurd path with reference to diversifying our energy resources that we are currently thinking about using liquefied natural gas in large quantities to take the place of natural gas, which is getting higher and higher in demand and less and less in terms of supply. I believe we ought to get on with producing as much natural gas from our own sources as possible. I believe the natural gas from the State of Alaska ought to be brought on board and we ought to help pay for the pipeline which will be the largest and most expensive construction job in our history, but it will transport voluminous quantities of natural gas and it will be ours. It will not be liquefied natural gas from Algeria, Tunisia, or wherever it comes from.

We are inviting the opposite. We are inviting States, principally in the eastern part of the United States—at least it is not the West or the South again. But I would like to make sure other parts of the country understand that if they have been holding out and not wanting us to get this energy bill passed because they think this is some easier way—like we can solve this with wind instead of natural gas—you know it just is not true. We cannot produce enough wind energy to take the place of the natural gas shortage we are going to have if we don't get on with producing it as fast as we can, in as large quantities as we can, and from safe sources, safe in terms of reliability and safe in terms of the environment.

We are going to hear more about this. I am sorry that I come to the Senate floor with such drastic statements about energy and the destruction of people and property because of this collision involving energy sources. But I can tell you, what the Committee on Energy and Natural Resources has been suggesting we do is so much less risky than this, this fuel that exploded, that I almost wonder what is it going to take to bring us to our senses.

There are Northern and Eastern States saying, once they hear about LNG, they don't want it either. But I can tell you, there is not going to be any gas for parts of our country and it is not going to be imported from the West to the East; it is going to be brought to where it is needed. We are going to see people who are now talking with permittees who want to build plants, refineries, bases where you can harbor and hold liquefied natural gas.

Unless one of those trains had LNG, and I don't think it did, we haven't seen anything yet. If you killed 1,000 and wounded 1,000 and blew up a town with two trains running into each other and one of them was not LNG, then whatever we know about will be less volatile than LNG. So we could be looking at a more disastrous situation.

I also suggest while we are talking about terrorism, just think of that. If we have to bring in shipload after shipload of natural gas, just think of what we are going to have to do to make sure it is not part of a terrorist plan to blow up part of our country.

I for one hope we don't have to bring very much in, but I am sure, with what has been going on—and I am sure the occupant of the chair shares my concern—we ought to be very careful. We ought to take on the issue of, can we get some nuclear powerplants built in a safer way than in the past? Can we produce some truly clean coal-burning plants? We can bring solar, wind, and geothermal on. We can give them subsidies, all that are in this bill which we will not bring up today.

I think for those who are looking at that terrible country, terrible in terms of the nature of the existence of the people in North Korea, we can do nothing but shake our heads in fear and trepidation. I just finished reading a book about North Korea. As a Senator from a free country, to just read what is going on in that country just scares me to death. How the people can be so ravaged, so disgraced as human beings by that regime, and then to have something like this happen to them makes me terribly unhappy to be part of leadership in this world, that we can still let that eyesore of terrible proportions exist. Here is another one—3,000 people. Just absolutely pathetic.

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

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

The Senator from Nevada is recognized.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of S. 2336 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Oregon.

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

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

IRAQ

Mr. SMITH. Mr. President, like all of my colleagues, I went back home during the Easter recess and listened to the feelings of Oregonians. It is clearly on the minds of the people of my State and much of the country the circumstance we find ourselves in Iraq. I thought I would come and share some of my perspective on where America is, as this one Senator sees it, in the war on terrorism.

I shared these feelings with many of my constituents. I wanted to share them with the Senate today as my reflections on the week I have just had.

When I first came to the Senate 7 years ago, I was privileged to spend my first term as a member of the Senate Foreign Relations Committee. I came to the Senate with many preconceived views about the values of many of our alliances and our involvement in all kinds of international architecture—the United Nations, NATO, and many treaties. I have been an advocate of these institutions and treaties on many occasions. But I find myself now in a position where I am questioning some of my earlier positions, based upon my experience as a Senator.

My questioning first began when I watched with dismay the U.N. essentially stand by as nearly 1 million Rwandans were hacked to death.

I watched with further dismay when approximately a quarter of a million Bosnian Muslims were murdered in cold blood by Mr. Milosevic and his minions, and I wondered why they couldn't do anything?

I remember the occasion when a number of us were invited to meet with President Clinton as our European allies were pleading with the President to intervene with them as Europeans to help stop genocide on Europe's backdoor. I remember saying to the President: Mr. President, I think stopping genocide is a value that I share with the international community, it certainly is and ought to be an American value. So, Mr. President, you have my support, but I urge you to seek a resolution from the Security Council so we go in with the ''legitimacy'' of the United Nations.

He said to me: Senator, I can't because I have been promised a U.N. resolution to intervene to stop genocide in Kosovo would be vetoed by the Russians and the Chinese.

President Clinton believed that was a value high enough that nobody ought to veto it, and America's hand should not be held back by such a veto. I could not have agreed with him more.

As a Republican, I voted with President Clinton consistently in our efforts to bail out our European friends in Kosovo to stop genocide. I am proud of those votes. I am proud of President Clinton for that. But I left the experience scratching my head about the United Nations and its role in the security architecture of our planet and particularly my country.

Then after 9/11, I heard lots of great speeches and then began to become aware of lots of wonderful resolutions and was so disappointed that there was no resolve in the resolutions; that it ended at words.

Now we find ourselves confronted with an investigation in the United Nations in which an oil for food program is going to be revealed to all the world as a monstrous corruption. It would be better titled a ''Fraud for Food Program.'' I wonder how well served we are by a Security Council that would tolerate such a thing.

I am not suggesting we withdraw from the United Nations, but I am telling you I believe we should question that is the place we go for legitimacy. I have concluded that the U.N. can do a few things well. Mr. Brahimi's efforts are to be applauded and gratitude expressed, but, frankly, to go there for legitimacy, as some suggest, I think is very misplaced because we cannot get legitimacy from the kind of corruption that has been engaged in the United Nations in its ''Fraud for Food Program.''

What happened here, as Mr. Volcker will soon reveal to the world, is a system of price fixing, price kiting, skimming, bribes, paybacks in which the United Nations bureaucracy, or at least some members of it, were deeply complicit. What Saddam Hussein got out of that, according to the Washington Post, was $4 billion. According to the New York Times, it is $10 billion. According to other estimates, it could run as high as $100 billion. Somewhere in that range the truth will be found.

What did he do with the billions, whether it is 4 or 100? He went about systematically rebuilding his murderous machine to buy weapons and palaces and to exterminate about 400,000 Shiite Muslims. Then I wonder why it is we are going to the U.N. for resolutions for legitimacy.

I tell you these things because, frankly, I was astounded when our friend and colleague, the Democratic presumptive nominee for President, was on ''Meet the Press.'' When asked what was the first thing he would do, he said: I will go back to the U.N.

I remember Dwight Eisenhower, when he became the Republican nominee, we were in trouble in Korea. He said: I will go to Korea. And JOHN KERRY is essentially saying: I will go to Paris. For what? Legitimacy? International involvement? We have gone to the U.N. and gotten 17 resolutions. Apparently, another is needed? For what? Legitimacy?

We are going to get people to sanction what we are doing when we will soon learn who was on the take and providing the money that Saddam Hussein used for palaces, weapons, and mass murder.

I hope JOHN KERRY runs his new ad in Oregon a lot because he repeats his ''Meet the Press'' statement in a slightly different version. He says: The first thing I will do is internationalize this. I will go to the international community.

I want the people of Oregon to know how vacuous a statement that is. I want my friend from Massachusetts to know I don't want the international community defending my family and my country. I know the American people want a sense of how do we get out of this because we don't want an open-ended commitment.

I hear it said by some of our European friends: You did it for oil. I tell the American people, if we had done it for oil, we would have invaded Venezuela. There is a lot of oil there, and they have no military. We did it for values. We did it because we believed in a post-9/11 world that Saddam Hussein was part and parcel of the war on terrorism. We believed, like all the other intelligence communities in the world, that he had weapons of mass destruction because he had declared them but not disclosed them. That is why Bill Clinton bombed Saddam Hussein for 4 days and nights in 1998. That is why this place, the United States Senate, under the direction and urging of Bill Clinton, passed a resolution calling for regime change.

The PRESIDING OFFICER (Mr. TALENT). The time of the Senator from Oregon has expired.

Mr. SMITH. Mr. President, I ask unanimous consent for another 5 minutes.

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

Mr. SMITH. Mr. President, we passed the resolution on regime change. In a post-9/11 world, with that intelligence that we had from President Clinton's administration and with that belief that he was a clear and growing danger to this country, and for all the reasons which President Bush has articulated, we did what President Clinton said we would ultimately have to do: Change that regime.

I tell you, my belief is that those who would say the war on terrorism is here, but Saddam Hussein is somehow exempted from that, are engaging in a theory because the truth is, he was, by every measure, a central financier and tormenter of terrorism. Ask the Israelis.

Where did Hamas get its money? There is a way out. There is a deadline that is drawing out of the shadows all those who want to compete for power. A lot of poison is being drained out of

the Iraqi system and America is bearing the burden, but we will see a gradual transition of power and sovereignty from us to the Iraqi people because our country does not aspire to the territory or treasury or oilfields of Iraq. We desire a more peaceful world.

President Bush has concluded, yes, we can swat flies and we can send cruise missiles here and there, but the truth is, if the fundamentals on the ground cannot be changed to give the people some democratic institutions, frankly, nothing is going to be changed in the Middle East.

Now, there is a very tribal culture there and ultimately Iraq may be evolving into a three-part state, with Kurds in the north and Shia in the south and Sunnis in the center, and there may be a very loose confederacy of Iraq, but to avoid civil war they will have to have some religious and ethnic elbowroom as Iraqis. We are going to allow that to happen, I hope.

I say to the people of my State, regard with humor if you can but great skepticism if you will those who call for internationalizing America's war on terrorism. They can come in any time. The problem is, they are complicit in the financing of Saddam Hussein and they run at the first shot.

Tony Blair recently addressed this body and the House of Representatives. In conclusion, I share with my colleagues his words. Said the Prime Minister: I know how hard it is on America. And in some small corner of this vast country out in Nevada or Idaho, I know out there is a guy getting on with his life perfectly happy, minding his own business, saying to you, the political leaders of the country, why me and why us and why America? And the only answer is because destiny has put you in this place in history, in this moment of time, and the task is yours to do.

This world is a better place because of American leadership and because America's foreign policy is still based on the best values of our Bill of Rights, democracy, human rights, the spread of freedom and enterprise through trade, religious freedom, thought, press, assembly. Things that we are privileged to take for granted are, frankly, unknown in the Middle East. This is our idealism and it is a centerpiece now of our foreign policy, but those who would go to the U.N. to establish those principles, they will do it in vain and they will do it with my opposition, if to internationalize this means my family and theirs are protected by institutions which the Russians, the French, the Chinese, or anyone can veto when it involves the security of the American people.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

IRAQ WAR FUNDING

Mr. KENNEDY. Mr. President, in his remarks yesterday, Senator BYRD raised serious questions about whether the Bush administration violated the law when it first began to prepare for war with Iraq without informing Congress it was using funds appropriated for other purposes to do so. Three days after 9/11, both the Senate and the House of Representatives approved $40 billion in emergency funds in response to that tragedy. The legislation was signed into law on September 18, 2001.

Its clearly stated purpose was ''to respond to the terrorist attacks on the United States that occurred on September 11, 2001, to provide assistance to the victims of the attacks, and to deal with other consequences of the attacks.''

When the Congress approved these funds images of the World Trade Center towers falling and the plume of smoke over the Pentagon were fresh in the minds of every American, and the Nation was mourning the loss of 3000 men and women who were brutally murdered in the worst terrorist attack in our history.

We were at war with al-Qaida, a terrorist organization based in Afghanistan, and with the Taliban government that was giving it sanctuary. Congress was united in its determination to help the administration win the war in Afghanistan and do all we could to prevent any further terrorist attacks.

Congress clearly did not intend those funds to be used for a war with Iraq. There had been no debate about Iraq. We were not thinking about Iraq in those painful and dark days after the 9/11 attacks.

But the administration was.

As we now know, the Bush administration was focused on Iraq from day one after the inauguration, and it was quick to use the 9/11 tragedy to advance its agenda on Iraq.

According to former Treasury Secretary Paul O'Neill's account in Ron Suskind's book, ''The Price of Loyalty,'' Iraq was on the agenda at the very first meeting of the National Security Council, just 10 days after President Bush's inauguration in 2001. As Secretary O'Neill said: ''Getting Hussein was now the Administration's focus. From the start, we were building the case against Hussein and looking at how we could take him out and change Iraq into a new country. And, if we did that, it would solve everything. It was all about finding a way to do it. That was the tone of it. The President saying, 'Fine. Go find me a way to do this.'''

September 11 gave the administration the excuse they were looking for to go to war with Iraq. According to notes taken by an aide to Secretary Rumsfeld on September 11, the very day of the attacks, the Secretary ordered the military to prepare a response to the attacks. The notes quote Rumsfeld as saying that he wanted the best information fast, to judge whether the information was good enough to hit Saddam and not just Osama bin Laden. ''Go massive,'' the notes quote him as saying. ''Sweep it all up. Things related and not.''

As Bob Woodward's new book, ''Plan of Attack'' reveals, President Bush himself asked Secretary Rumsfeld to get a war plan for Iraq on November 21—barely 2 months after the devastating attacks. In the many months that followed, Congress had no idea that secret preparations for war in Iraq were underway. It was not until September 2002, nearly 10 months later, that the administration even asked Congress to authorize war in Iraq.

Senator BYRD is right to raise this issue and to ask the tough questions. In a hearing in the Senate Armed Services Committee on Tuesday, Deputy Secretary Paul Wolfowitz gave us a non justification. He said that the administration notified Congress about $63 million in military construction spending for Iraq on October 11 2002—just 1 day after Congress passed the joint resolution authorizing the use of force in Iraq. After that, Secretary Wolfowitz said, ''some $800 million were made available over the following months to support Iraq preparatory tasks consistent with that joint resolution.''

But Mr. Wolfowitz's claim is inconsistent with the assertion in Bob Woodward's book that $700 million worth of ''preparatory tasks'' were approved in the summer of 2002 to accommodate the major U.S. troop deployment that would be required for the invasion of Iraq.

Diverting funds from the war in Afghanistan or from the Pentagon's regular operating budget to prepare for war against Iraq without the knowledge of Congress is clearly a fundamental breach of the trust that must exist between Congress and the President in our system of government. It is clearly at odds with the requirement of the Emergency Supplemental Appropriations Act itself, which states that ''the President shall consult with the Chairmen and ranking minority members of the Committees on Appropriations prior to the transfer of these funds.''

In the summer of 2002 when these plans were under way, the war against al-Qaida was far from over. Osama bin Laden was still at large. If Mr. Woodward is correct, the failure even to consult with Congress shows the contempt of the Bush administration for the constitutional role of Congress on the fundamental issue of war and peace.

We need satisfactory answers to many questions:

Did the administration divert funds provided to respond to the 9/11 attacks and spend them in the summer of 2002 to prepare for war in Iraq?

If the administration did begin spending those funds in the summer of

2002, why did it not consult the Chairman of the Appropriations Committee as the law required.?

If the administration did begin spending such funds in the summer of 2002, why did the quarterly reports provided to Congress not clearly indicate that projects were being funded to prepare for war with Iraq?

The failure to engage the Congress confirms what many of us have said all along. The administration had a hidden agenda from day one, and it shamelessly capitalized on fears created by 9/11 to advance that agenda.

The Congress and the American people deserve answers, and we deserve them now. The administration must tell the full truth and provide to the Congress and the American people a full accounting of all Iraq war related expenditures in 2002.

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

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

Ms. CANTWELL. I ask to speak for 20 minutes on two pieces of legislation.

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

ELECTRICITY GRID AND RELIABILITY

Ms. CANTWELL. Mr. President, I rise to discuss with my colleagues two bills that I believe we are being negligent as a body in not taking up and passing. I am sure many of my colleagues are heading to the airport feeling like this week we accomplished a lot, or maybe they feel they gave a lot of speeches. The world is obviously a very dangerous and threatening place right now, and maybe my colleagues think if we get up and we communicate about that, we have done our job in Washington, DC. Well, the discussion is good, but action is even better when it comes to the American people. And there are two critical issues—two critical issues we have bipartisan support on, two critical issues both the House and Senate have passed legislation in the past to deal with and on which we could pass legislation today—that we cannot put on the priority list to take up and take action to help the American people.

The first one is on the electricity grid and reliability. Now, some of my colleagues may remember that the blackout of last August 14 led to a report from a commission that was released more than two weeks ago. When the blackout occurred last summer, we said that we were going to get to the bottom of how it happened and what we should do about it. The No. 1 recommendation from that commission was to make reliability standards mandatory and enforceable, with penalties for noncompliance. People across America probably woke up after that blackout and thought, what happened? How did this whole situation happen to us?

I can tell them how it happened. We do not have any mandatory rules in place for the electricity grid to make sure we protect consumers, that there is a reliability backstop governing actions by these energy companies.

Why is there not? The independent system operators and utilities have rules, but they are not mandatory. In fact, the commission's report said First Energy, one of the key companies involved in last August's blackout, was not complying with the voluntary rules.

Well, I am sure they did not feel there was much penalty in not complying with these rules because they were voluntary. So the commission's report is being very specific about what we should do. Congress needs to get about our business in passing legislation to make these rules mandatory.

Now I know some people think, I have sat a night at home with candles or gotten the flashlight out or my fuse box goes out and it is not so bad. Well, I tell my colleagues, last August's blackout was a bad situation. We had people in New York who could not get down elevators and lived many flights up in apartments. We had an increase of people going to emergency rooms in New York because they were having heart attacks or other kinds of things were happening to them physically. Under the stress of trying to vacate many of the facilities in New York, we had major gridlock for hours. We lost $4 billion to $10 billion economically as the result of the blackout, and we put our senior citizens at great risk of harm because they did not have access to electricity on a hot summer day.

So the question is, what are we going to do about this and are we going to move ahead? Well, I came to speak about this a couple of weeks ago, before we adjourned for the recess. And since then, I find we have now 20 different newspapers across America that basically have asked, why hasn't Congress operated and gotten this done?

For example, the Miami Herald—it is starting to get warm in Miami. People are realizing summer is not that far off and the Miami Herald stated that, ''Another long, hot summer is looming.'' These reliability bills should be enacted and they should be enacted now. That is not surprising since they know what a blackout can do in the heat of a summer.

Another newspaper, the Boston Globe, stated that ''at the top of the commission's proposals is legislation that would make mandatory the grid reliability standards that are now voluntary. Congress should quickly pass a bill . . . that would do just that.''

There is another newspaper that knows about this because its readers were impacted by that electricity grid blackout last August. They know the commission came back and recommended this is what we should do.

The reason I am bringing this issue up now is because I think some people on the other side of the aisle think we are just going to take another stab at the good old Energy bill. We are going to make another attempt to pass legislation that just about every newspaper in America has editorialized against—a bill that myself and my colleagues have called legislation for hooters, polluters, and corporate looters, because those are the kinds of provisions that were included in the Energy bill that drowned out the more notable items such as the reliability standards also buried in there.

Why are we going to continue to hold hostage legislation on reliability standards that would protect consumers across America from future blackouts, just to getting a big, fat energy bill for which there is never enough support? My colleagues know how bad that legislation is.

My colleagues want to continue to use the reliability standards, which all the blackout commissions and various organizations across America have said consumers deserve as protection, as the train driving the energy bill. My colleagues are going to say, no, we are going to keep holding reliability hostage. We want to see if Congress blinks and maybe will go ahead and pass that big energy bill.

Well, do not come to blame this side of the aisle when we do not get the Energy bill and we do not have reliability standards, because we are trying to pass these standards, just as various newspapers across the country are saying. In fact, I think the Detroit Free Press said it best. They said '' . . . the solution lies with Congress. Nearly 8 months post-blackout, it still has not passed mandatory standards. Voters should turn on their power and demand it.''

I think what they mean is that voters should be demanding that we do our job. Reliability legislation could have been brought up any day this week—Tuesday, Wednesday, Thursday. I understand my colleagues have probably now gone to catch planes and meet other schedules, but this could be brought up next week. We could make a commitment to have it brought up. I do not think there is controversy over this particular legislation or the original provision as it was included in the Energy bill. It is just being used as bait and being held hostage.

So there are other newspapers across the country that say, ''a responsible energy policy would be to strip out the mandatory federal [reliability] standards and pass them as a stand-alone bill.'' This is from the Memphis newspaper. The people in Memphis, TN, are asking, why are you doing this? Why are you continuing not to pass good legislation just so you can get bad legislation attached to it? When people across America are asking, what is

going on here, we ought to come together as a body and figure this out.

I do not like to be partisan about it because I would rather get it done. I would rather pass it. But newspapers are starting to realize that it is getting partisan. The Philadelphia Inquirer said that Republicans were happy to consider the bill—meaning the Energy bill—happy to consider taking up some of the Energy bill's tax incentives as part of a corporate tax bill. That meant we took those tax credits out of the Energy bill or were willing to consider some energy tax credit on the FSC/ETI bill. So if we can do that, why can we not break out the reliability measure, why can we not take the reliability measure as stand-alone legislation?

Now, the head of the North American Electric Reliability Council came and spoke before the Energy and Natural Resources Committee just before this report was being released. I asked him this very question. Their job is to try to provide reliability of energy to Americans throughout this country. I asked: Should we pass a stand-alone bill? His response was yes. Now, he was interrupted by the chairman, who then said: We do not need to do that now.

Well, I disagree with the chairman of the Energy and Natural Resources Committee, and I think we should consider moving ahead. I think that is what The Washington Post is saying. It said it would be a shame if there is insistence on the whole bill or nothing. That means holding reliability hostage. It means Congress would never get around to shoring up the electricity grid, and perhaps that is a shame, or perhaps shame is too mild a word.

Well, I know I think it is too mild a word because we have been waiting since 1999 to get this legislation passed. By that, I mean we have had blackouts in various parts of America since 1996, and every time we have had one of those blackouts in those regions, people have come to us in Congress and said that we ought to pass some rules so we can get a mandatory reliability scheme in place and so utilities have to comply.

We have had multiple blackouts since 1996. This picture shows across America where we have had blackouts since then. You can see the huge amounts of territory in various States: Texas, New Mexico, Arizona, California, Washington, up now to the northeastern part of Ohio, Pennsylvania, New York. I ask my colleagues, are we going to wait until every State in the country has a blackout and then finally say, ''Oh, I guess we get the message, I guess we ought to do something about it?''

I think the newspaper that said it best was the Indianapolis Star. These newspapers across America have shone a bright light on what has been an issue that most Members would like to get away from and not pay attention to. The Indianapolis Star said it best:

> . . . if the lights go out again this summer, spare the investigation. Congress is to blame.

I think that paper said it best. This is about us doing our job. This is about the attempt to bring up other legislation that may or may not have the agreement necessary for it to be passed, or to pass a cloture motion. There is support for this legislation. There is a report that demands our attention. There are consumers who are waiting for protection. We should do our job.

I ask unanimous consent the Senate now turn to Calendar No. 465, S. 2236, a bill to enhance the reliability of the electric system, that the bill be read three times and passed, the motion to reconsider be laid on the table, without any intervening action or debate.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Texas, I object.

Ms. CANTWELL. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 7½ minutes.

Ms. CANTWELL. Mr. President, that sums it up. I am going to be here every day next week that we are in session, asking to pass this bill and asking my colleagues why, in the name of the American consumer and the assurance of our economy that cannot afford to have an unstable electricity grid with no rules and regulations, and energy companies that do not have to meet mandatory requirements—why we are not protecting these consumers.

Many of my colleagues know there is another issue this Senator believes has not gotten the attention of this body. Each month another set of unemployment and job creation numbers come out. And each month the American public becomes more and more convinced that we are not living up to the prediction and promise of 2.6 million jobs that were supposed to be created this year. And because of that empty promise, the American people want to know when this body will take up and pass legislation to reinstate the unemployment compensation program.

This program was designed for times just like these. The Federal government has an obligation to make sure this program is in place. What do you do during tough economic situations? You pass a Federal program to help ease the pain of those who are unemployed and cannot find work.

In the Economic Report of the President, Mr. Bush's Administration projected that this year we were going to create 2.6 million jobs. We are nowhere near that projection. In fact, last month was the first month we saw any real job growth at all. But, after just one month of decent growth some people are saying that the economy is all better. But, there are many economists who disagree. The Miami Herald ran this headline:

> Jobs Report: Mixed Messages. The White House gets a boost from strong job growth, but economists say unemployment will remain a problem.

Economists are saying it will remain a problem because the number of jobs being created is a long way away from what we need to get America back to work. There are 8.4 million Americans out of work. After the job creation in March, 8.1 million of those Americans will still be out of work.

Here's what the Dayton Daily News said:

> Maybe there are brighter days ahead. But that's no comfort now to the unprecedented number of laid-off workers, who have scrambled without success to find a job and . . . [they have] lost the little bit of help given under the State unemployment benefits programs.

So now those laid-off workers are looking to us for help. They want to know why they and their employers paid into the unemployment insurance system if there's no program to help them when they need it. There is $15.4 billion in the unemployment insurance trust fund—a fund that was created for economic times like these—and the federal government is not going to help us through this unemployment crisis.

What is really happening in this recovery is that there are 1.1 million jobless workers who have exhausted their benefits and are not receiving additional support. That is the number. Those 1.1 million people and the people who are following behind them want to point out to this Congress that the economy is not getting better at a fast enough pace to help them put food on the table today.

I think that drawing a comparison to the first Bush administration is helpful because the first Bush administration faced a similar problem with the economy in the early 1990s. That recession was not as deep as the one we are dealing with today. In fact, during that recession we lost a total of 1.6 million jobs, while in this recession we lost a total of 2.6 million. But in the last recession, even after the economy had started to create jobs, George H.W. Bush still extended unemployment benefits. The reason that administration passed an extension, even though job creation had started, was because they knew that it was going to be a long road to get to a place where there were enough jobs for Americans who wanted and needed to work. They also knew that unemployment benefits are a stimulus for the economy—the people pay their mortgage, keep their health insurance, keep food on the table, until the job creation engine of the private sector started going again. That is what the temporary federal benefits are. They are insurance until the economy gets going again.

We have had this debate back and forth, too, about who is to blame about this issue, or what is the big holdup. We have the Treasury Secretary who actually came to my State and said: We don't really believe that 2.6 million job creation number. Yes, the administration said it, but we don't think it is really going to happen. We don't know what the number is going to be.

So, we have the administration saying they really don't know how many jobs will be created this year. Then we have had Mr. Greenspan, who most people respect, come before a variety of committees. He just came before the Joint Economic Committee this week. When he was asked if we should extend unemployment benefits, he said:

I do think it's a good idea, largely because of the size of exhaustions.

What he is saying is that those 1.1 million people who have exhausted their jobs are out there to demonstrate that the economy isn't getting better at a fast enough pace. Therefore, we should continue the Federal program until we see more job creation.

That is what I think should happen. I see lots of people across the country who are very frustrated by this.

In fact, the Dayton News just in the last few weeks said:

GOP leaders still dodging jobless.

That is not this Democratic Senator saying this. This is a newspaper in a State that has been as hard hit by the loss of manufacturing jobs as my State has. Ohio and Washington are among the highest unemployment States. They are saying GOP leaders are dodging the jobless. Why are they saying that? Here's the answer of the Dayton paper:

What's troubling . . . is how some Republican leaders are hoisting another ''Mission Accomplished'' banner, this one to hide the struggle of more than a million unemployed workers who have exhausted State benefits without finding another job.

That is the Dayton paper saying that. That is not this Senator.

I happen to agree with the paper's point, that we should take care of these 1.1 million people Greenspan says are not getting help. The economists are saying we are not recovering fast enough; give these people the benefit. I believe the Senate must act.

That is what Business Week said:

Government actions will act as a bridge that will help the economy cross over this extended valley of almost nonexistent hiring.

That is Business Week.

Why do they say that? Because they know the best thing for us to do is pass the unemployment benefits and create a bridge until we see substantial job creation.

I can't think of a better source to listen to than Business Week, which analyzes business trends, or Alan Greenspan, the Chairman of the Federal Reserve, when they say we ought to pass these benefits.

This is about the 16th or 17th time we have been to the floor. I know people say we are working on something. People say, Let's compromise. Let us cut the program in half. But, Alan Greenspan didn't say cut the program in half. The Dayton newspaper didn't say cut it in half.

UNANIMOUS CONSENT REQUEST

I ask unanimous consent that the Senate now turn to Calendar No. 470, which is S. 2250, a bill to extend unemployment insurance benefits for displaced workers, that the bill be read three times and passed and the motion to reconsider be laid on the table without intervening action or debate.

The PRESIDING OFFICER. In my capacity as a Senator from Texas, I object.

Ms. CANTWELL. Thank you, Mr. President.

How much time do I have remaining?

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

Ms. CANTWELL. Mr. President, I ask unanimous consent for another 30 seconds.

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

Ms. CANTWELL. The Presiding Officer has been so kind to listen with interest to these two issues. I hope he and my other colleagues will take these two issues to heart. I am being pointed in my remarks today because I believe these are two issues this body has the responsibility to deal with. These are two issues we can't get done and we are holding the American people hostage by not addressing our basic domestic economic security needs by giving people jobs and the reliable security of electricity grids.

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

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

ASBESTOS LITIGATION REFORM

Mr. FRIST. Mr. President, today we had a vote on the motion to proceed to the asbestos bill. As a followup to that vote, the Democratic leader and I have been in discussions over the course of the day. Unfortunately, we have yet to work through the legislative impasse on asbestos. However, there are Senators on both sides of the aisle who are committed to getting something done.

This morning Senator DASCHLE and I confirmed our understanding that we must provide an opportunity for negotiations which will determine whether a bipartisan solution can be reached. We will oversee a mediation process to determine whether we can resolve the remaining differences. My hope is we can work through this quickly.

Mr. DASCHLE. Mr. President, while I am disappointed that we find ourselves in this situation, I am pleased we are now going to begin the negotiations and move forward. As we have discussed, starting on Monday, we will convene meetings of interested stakeholders utilizing Judge Edward Becker as a mediator. I am strongly committed to getting the bill done and working through the serious issues that still divide us. The issue of asbestos is too vitally important to let this opportunity slip away. I know Senator FRIST is committed as well.

Mr. FRIST. I believe the process needs to initially focus on the major issues—overall funding, claims values, and projections. If we can make progress on this front, I strongly believe we can resolve the others.

Mr. DASCHLE. I agree. I think the funding and the so-called economic issues are critical to finding a solution. If we can't get a fair funding level that provides just compensation to victims and certainty to businesses, then we won't be able to resolve the other interlocking issues.

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

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

TRIBUTE TO MARY MCGRORY

Mr. HARKIN. Mr. President, this evening I want to take a few minutes of the time of the Senate to pay tribute to and to say a public goodbye to Mary McGrory, a friend of long standing to me and my wife Ruth and to our daughters Amy and Jenny. Mary passed away last evening here in Washington after having had a long illness.

Mary McGrory was a wonderful, warm, witty, and wise woman. Her death is, indeed, a passing of an era when the written word could carry meaning, when the written word could actually move people, when people looked to a Mary McGrory to give them the kind of inspiration they needed or to give them the in-depth analysis they needed to understand what was going on in Washington.

Her writing had such a clarity about it that once I read what Mary McGrory had written, I found myself many times saying: Yes, that's how I feel. Why didn't I think of that? Why couldn't I have said it that way?

I think of her passing as the passing of an era, like there is a time and a place and a circumstance that happens in the passing of time when certain individuals do something, make something, or leave an imprint in some way that you know will never happen again, such as the passing of a Michelangelo, a Leonardo da Vinci, a Shakespeare, a time and a place for Shakespeare and his magnificent writings never to be seen again. I think of that when I think of Mary McGrory because we may never see her kind of writing ever again.

Oh, with the advent of computers, sound bites, trying to get everything into 30 seconds or trying to make everything so simple that it is reduced to meaningless jabber, it may be that we will never see her kind of writing again.

Mary McGrory could make words dance. She could make sentences sing and turn paragraphs into symphonies. But it was not just her writing alone that endeared so many of us to Mary. It was just Mary, such a unique individual. It is hard to describe sometimes. I guess moments like this when you know you will never have her company again, you think about the pleasant times you spent together.

Of course, I always think about Mary's annual St. Patrick's Day bash—party, if you will—at her home on Macomb Street. I didn't make every one. Sometimes I was in Iowa on the weekend. It was always on the weekend before or after St. Patrick's Day. Usually before. But I made several of them.

They were wonderful affairs. There was, of course, music, a lot of singing, and, of course, Mary McGrory's lasagna which was always kind of odd. One would think that maybe on St. Paddy's Day one would have corned beef and cabbage, an Irish dish or Irish stew, something like that, but we always had lasagna. Mary McGrory was very proud of her Irish heritage, but I always thought she felt a bit confused. While she was Irish to the core, she loved Italy and loved going to Italy, and she loved having lasagna on St. Patrick's Day.

She one time said, and I am paraphrasing because I don't remember the exact words: It is too bad the Irish could not have been born in Italy. As I said, she was sometimes, I think, a little confused whether she wanted to be more Irish or maybe more Italian, but she was Irish to the core.

Her St. Patrick's Day events were wonderful occasions. There is that wonderful song about when Irish eyes are smiling, and something about the lilt of Irish laughter, you can hear the angels sing. When Mary McGrory's eyes lit up and when she laughed, she was all Irish and you really could hear angels sing.

We always had music and songs. Everyone had to perform at Mary's St. Patrick's Day parties. Everyone had to perform. She always had people of talent there to play the piano or some musical instrument. Since I am musically challenged, and she knew this, I was always commissioned to sing. My song always thereafter was Mother McCree. I always substituted the words ''Mary McGrory'' for ''Mother McCree'' which delighted her to no end.

Mary McGrory was a clever woman. She knew how to cajole, how to sometimes even plead, ask, prod, and act terribly helpless knowing that someone would pick up her suitcase, carry her belongings, get something for her, and when that happened, and you would retrieve something or carry something for her, do something for Mary, when you finished doing it, there was this twinkle in her eye and you knew you had been had one more time. She was very clever.

Mary and my wife Ruth became fast and strong friends over gardening.

I enjoyed gardening, although I am not much of a gardener myself. I would sit and listen to them talk about gardening, or Mary would come out to the house and my wife would take her around or ask her about this flower or that flower. Of course, we would go to her place and they would go out and look at Mary's flowers and what was wrong here and what should be planted there. I always felt my job was to go down to Connecticut Avenue and pick up something to eat and come back at the appropriate time when they had finished talking about gardening.

Much has been written and much will be written about Mary's background and where she went to school and what got her into journalism, but I think more should be said about the imprint she left on so many people. She was not only a warm, wise, witty, and clever woman, she was an inspirational woman to so many people.

After you had been with Mary, or after maybe reading one of her columns, you always felt better. You felt better about the world around you. You felt better about things maybe you thought were going wrong. Maybe you were mad about something the Government was doing in one administration or another. You read her column and you felt no matter how bad things were, it was going to be okay; we were going to get through it; right would prevail; justice would triumph and people of good will would take over.

There is an old folk song with this refrain: Passing through, passing through, sometimes happy, sometimes blue, glad that I ran into you. Tell the people that you saw me passing through.

Well, Mary, you passed through and in your passing through you inspired us; you made us think; you prodded us to question, and always, to the end, gave us hope and courage that life will be better for those who come after us.

So we say goodbye to Mary McGrory, thanks for passing through, thanks for touching each of us so profoundly as you did when you passed through.

I yield the floor.

FAIRNESS IN ASBESTOS INJURY RESOLUTION (FAIR) ACT

Mr. CHAFEE. Mr. President, earlier today I voted in favor of invoking cloture on the motion to proceed to S. 2290, the Fairness in Asbestos Injury Resolution Act. My vote was not an endorsement of S. 2290 as it was introduced in the Senate. I recognize that concerns have been raised about specific provisions of the bill, and I would consider supporting amendments to S. 2290 if the Senate has an opportunity to fully debate this legislation.

However, I am very concerned about shortcomings in the current system, and support legislating a bipartisan solution that offers a fairer, more efficient process for compensating asbestos victims. For this reason, I voted for cloture on S. 2290 in an effort to move the debate forward.

HONORING OUR ARMED FORCES

SERGEANT FELIX DELGRECO

Mr. DODD. Mr. President, I rise to pay tribute to Sgt. Felix Delgreco of the Connecticut Army National Guard, who was killed in action in Iraq on Friday, April 9, at the age of 22.

Sgt. Delgreco was the first Connecticut National Guardsman to be killed in Iraq. His unit, the C Company, 102nd Infantry, was based in Bristol and had been deployed in Kuwait since March. It had been in Baghdad for less than 3 days when Sgt. Delgreco was killed.

Felix Delgreco enlisted in the Guard in 1999, while he was still in high school. Before he went overseas this year, he had been deployed twice once on a peacekeeping effort in Bosnia in 2001, and once in 2003 to West Point for a homeland security mission.

Felix Delgreco was not ordered to go to Iraq. No one forced him to get on a plane. He volunteered. Felix Delgreco was an American patriot who wanted to serve his country and to help build a brighter future for the people of Iraq. He took it upon himself to make a difference in his community and in his world.

Felix Delgreco's friends say he was a friendly, outgoing young man who could fit in anywhere. He enjoyed writing poetry and playing music, and worked backstage during school plays at Simsbury High School. He was an Eagle Scout who took the values of leadership, service, and honor seriously. His cooking skills were well-renowned, both among his fellow scouts and among those who served with him in the Guard. He had dreams of one day running for President. From time to time, he would even plan out the details of his 2024 campaign with his friends.

Sgt. Delgreco was an individual whose warmth, enthusiasm, and spirit touched everyone around him. Perhaps his former scoutmaster, Richard Gugliemetti, put it best when he said, ''Felix Delgreco made us all better people.''

Felix Delgreco could have chosen many other paths in life. But he chose one of commitment, of duty, and of service. That was the kind of person Felix Delgreco was. And we are all forever in his debt for the tremendous sacrifice he made so that we can live in freedom and security.

I extend my deepest sympathies to Sgt. Delgreco's parents, Felix and Claire, to his entire family, and to everyone who was fortunate to know him.

TYANNA AVERY-FELDER

Mr. DODD. Mr. President, I rise in memory of U.S. Army SP4 Tyanna Avery-Felder, of Bridgeport, Connecticut, who was killed in the line of duty in Iraq. She was 22 years old.

Specialist Avery-Felder, who served as a cook with the Army's Stryker Brigade, based in Fort Lewis, WA, died on April 6, 2004, 2 days after her convoy

was hit by an improvised explosive device in Mosul, Iraq. She is the first woman from Connecticut to be killed in Iraq since the United States began military operations there in March 2003.

Tyanna Avery-Felder's death is a sobering reminder to all of us, and particularly to people in my home State of Connecticut, that the brave members of our Armed Forces who are risking their lives for us overseas are no longer simply sons, brothers, and fathers. They are daughters, mothers, and sisters, as well.

Specialist Avery-Felder was not the only soldier in her family. She was married to U.S. Army SP4 Adrian Felder. The couple met while they were both completing their basic training in Fort Lewis, and they were married on December 20, 2002, just a few months before the war in Iraq began. Both of them knew of the commitment, risk, and sacrifice inherent in military service. But it was Tyanna who was called to serve overseas in Iraq. And it was she who would make the most powerful sacrifice of all.

Tyanna Avery-Felder was a graduate of Kolbe Cathedral High School in Bridgeport, where she enjoyed playing basketball and singing in the gospel choir. She spent 1 year at Southern Connecticut State University before enlisting in the Army. She was determined to be a teacher for young children when she finished her military service.

Tyanna was a driven, goal-oriented young woman whose mind was hard to change once she made it up. And she was the kind of soldier who inspired her drill instructor at boot camp to compliment her on her toughness. But Specialist Avery-Felder also had a kind heart, and a loving relationship with her parents and her husband.

All of us in Connecticut and across America owe a deep and solemn debt of gratitude to Tyanna Avery-Felder and to her family for her service to our country. On behalf of the U.S. Senate, I offer my deepest condolences to Tyanna's husband Adrian, to her parents, Ray and Ilene, and to everyone who knew and loved her.

BUSH ADMINISTRATION'S ENVIRONMENTAL ROLLBACKS

Mr. LEAHY. Mr. President, today is supposed to be a day to mark the importance of protecting the environment. And thankfully, many people are. But though we are all marking the day, the only people celebrating are industry CEOs and lobbyists.

The Bush administration's laser-like focus on rolling back our environmental and public health protections is breathtaking, literally. The rollbacks are dirtying our air and destroying the health of the planet.

Instead of packing the agencies responsible for the environment with environmental stewards as you would expect, the administration has focused on creating a public relations firm under the guise of the Environmental Protection Agency.

It's been a busy PR firm: announcing environmental rollbacks on Fridays or around holidays when they think the American public is not paying attention, assigning green names to destructive policies, scrubbing regulatory actions to downplay public health risks to meet their political needs and flat out ignoring scientific facts are just a few of their favorite marketing tools.

But for all their public relations maneuvering, the public recognizes the enormous and long-term effect of these policies on our environment and our health. This PR campaign is being led by the very people the administration is supposed to be policing: industry representatives often at the heart of the most egregious environmental neglect. The administration's lates rollback has the fingerprints of lobbyists all over it, the Bush retreat from strong mercury controls at coal-fired power plants.

Unfortunately, the ''swoosh'' from the revolving door between industry lobby shops and the Bush administration has now spilled over to the Federal bench. The Bush administration recognizes that the courts have become the final backstop against their environmental rollbacks, blocking Bush attempts to gut the Clean Air Act, Clean Water Act and protection of our national monuments.

The courts have ruled against Bush arguments to weaken the National Environmental Policy Act and the Endangered Species Act 80 percent of the time. The Bush solution, give anti-environmental, unqualified industry lobbyists lifetime judicial appointments.

The debate over William Myers, a former cattle and mining industry lobbyist, may be one of the most important environmental debates we have this year. Unlike the Bush industry appointees to Federal agencies, Mr. Myers' effect on environment and public lands would survive long past this Presidency. As I have said many times, the environment is not a partisan issue but this administration has made it clear that industry interests trump the public interest.

GOVERNOR FRANK B. MORRISON

Mr. HAGEL. Mr. President, Gov. Frank Morrison was quoted in the December 5, 1975 Lincoln Evening Journal:

> As long as Frank Morrison's alive, I'll never retire, even though I'm flat on my back. There are too many problems in this world which need attention.

Much has already been said about the late Gov. Frank B. Morrison and his remarkable life. However, I would like to add a couple of thoughts from the perspective of a Nebraskan, a U.S. Senator, and a Republican.

The first time I had the opportunity to meet Frank Morrison, I was a young radio station reporter in Omaha during the 1970 Nebraska Senate campaign. In my first interview with him, I was drawn to his passion and sense of purpose. Frank Morrison believed he could make the world better—and he succeeded. His political career and life were about enhancing the world around him and solving problems.

Frank's dedication to Nebraska was, and still is, seen and felt statewide. As Governor, he and his wife Maxine encouraged Nebraskans to take pride in their State. It was his vision and pride in Nebraska that eventually led to the completion of the Great Platte River Road Archway spanning Interstate 80 outside of Kearney. He was dedicated to recognizing Nebraska's role as an important crossroads in the Nation's development and westward migration.

I stayed in touch with Frank over the years, but it wasn't until I came to the Senate in 1997 that I communicated with him on a regular basis. He would write or call me, offering suggestions, observations, and thoughts on issues of the day. I last spoke with him a week after Maxine's death when Frank knew he had very little time left. In our last conversation, he never once mentioned his battle with cancer, his pain, or his impending death. Our conversations were always about the future.

I told my Senate colleague and Frank's former colleague, Senator FRITZ HOLLINGS (D-SC), that Frank did not have much time left. Frank and FRITZ were Governors together during the 1960s. I gave FRITZ Frank's phone number and he called him. They had a wonderful 45 minute conversation as they said their last goodbyes.

Frank Morrison was a remarkable man for many reasons. The ultimate compliment that can be paid to any of us at the end of our lives fits him well—he left the world better than he found it.

Frank's unyielding commitment to his family, State, and country is a model for all Nebraskans. He was a dedicated public servant who inspired others through his personal conduct and respect for others. All of Nebraska thanks Governor Frank and Maxine Morrison for their contributions to our State and humanity.

Mr. HOLLINGS. Mr. President, this week the citizens of Nebraska lost a legend with the passing of Governor Frank Morrison, and I rise to recognize my plain-spoken friend of 45 years.

When I was Governor of South Carolina, Frank became Governor of Nebraska, and I have admired him ever since. We spoke earlier this spring, and his mind was as sharp at age 98, as it was at age 58.

When I think of Frank I think of a man who knew how to get results. He was a progressive Governor, but also a fiscally conservative one. He implemented many changes, insofar as creating an educational television network and a statewide employee retirement system that modernized state government.

We will miss him, as we miss his wife Maxine, who just passed away last

month. My wife, Peatsy, joins me in extending our deepest sympathy to their family.

Mr. NELSON of Nebraska. Mr. President, I rise today to honor a great Nebraskan, a statesman, and a friend—former Governor Frank Morrison.

On Monday, Frank Morrison passed away in McCook, NE.

For a boy growing up in McCook, Frank Morrison was more than a governor to me, he was a role model. The Morrisons were friends of my family and I still remember delivering my first May Basket to Jeanne Morrison at the age of five. Maxine Morrison was my kindergarten teacher and Frank was my mentor in my early years in Nebraska politics.

I would often talk to him about the issues of the day and he was always candid and fair in his advice. We didn't always agree, but Frank never let politics become personal. He had big dreams and big goals, but they were always practical and they became possible through his dedication. He worked with folks on both sides and he got a lot done because he understood that rhetoric and partisan passions were less important than making progress. He was a democrat and he loved the Democratic Party. But he loved Nebraska more. Nebraska was always, ALWAYS, first in his mind.

Althought not a native Nebraskan, he loved this state as much as anyone and, in every sense of the word, was a statesman. He was as synonymous with Nebraska as the Sandhills, the Panhandle, the Platte, and the Huskers. All Nebraskans owe Frank Morrison a debt of gratitude for the leadership and partnerships he offered us over the years.

Just last year, we had an illustration for the kind of regard in which Frank was held. Last September, the Chancellor of the University of Kearney, Dough Christenson, presented Frank with an honorary degree. The degree recognized Frank's more than seven decades of public service and his tireless advocacy for Nebraska. Frank said that it was the greatest day of his life, except the day his wife Maxine said ''yes''. Truly a well-deserved honor for a beloved Nebraska statesman.

I would be leaving something out if I didn't also talk about Frank's sense of humor. His wit was legendary in Nebraska and it was undiminished even in his final days. I remember, just after one of my first elections—a very close primary race, I spoke with Frank and he told me about one of his first races.

He had been nominated to the local school board by both parties. And he said he lost to a write-in candidate.

But losing an election didn't bother Frank. He was dedicated to public service and to promoting Nebraska.

He brought pride to our State and he was a tireless advocate of the natural wonders of a State that he had not been born in, but that he called home.

Frank was 98 years old when he passed and that is a long life by anyone's standards. But the measure of his accomplishments is longer still.

Just a little over a month ago, Frank's beloved wife Maxine passed away. The loss of these two Nebraska legends had signaled, perhaps, the end of an era. They have left a void that will be very difficult to fill, but they have also left a legacy and a love of Nebraska and his country that will likely outlive us all.

I conclude with some words from the McCook Daily Gazette, the daily paper from the hometown Frank and I share:

''Frank had a grand vision, but he was also a down home person who loved his family, his adopted hometown, the people of Nebraska and this nation and this world.

''We will miss you, Frank. But we are very, very glad you lived such an abundant life. Thank you for living with purpose and passion. We will try, as best we can, to follow your example.''

CELEBRATING EARTH DAY 2004

Mrs. FEINSTEIN. Mr. President, since the first Earth Day on April 22, 1970, we have celebrated this day as an annual occasion on which to examine our Nation's environmental policies.

Sadly, there is little to celebrate in terms of environmental protection this year and much to worry about.

Just last week, we learned that 474 counties throughout our Nation failed to meet air quality standards set by the Environmental Protection Agency. A total of 159 million people—more than half the Nation's population—live in these communities.

In my home State of California nearly 90 percent of State residents live in areas with unhealthy levels of smog. That means that 90 percent of Californians are at increased risk of asthma, reduced lung function and chronic lung diseases.

What is also alarming is that eight national parks, four of which are in California, contain excessively high levels of ozone.

Can you believe that the air in Yosemite, Sequoia, Kings Canyon, and Joshua Tree National Parks is harmful to your health?

And then there is the gravest threat to our environment and ultimately, our health—global warming. Climate change is the most important environmental issue facing us today.

I would like to take a minute now to talk about a likely impact of climate change that has not received very much attention—its effect on our water supplies.

The evidence is growing that climate change threatens water supplies throughout the western United States—and especially on the West Coast.

Just recently, researchers at the University of California at Santa Cruz analyzed the impact of global warming on Arctic Sea ice.

What they found was that higher temperatures will cause Arctic Sea ice to melt which will, in turn, reduce the west coast's water supply.

According to the Santa Cruz scientists' models, melting sea ice will create columns of warmer air that change air flow in the atmosphere and deflect storms and needed precipitation away from Western U.S. lands.

Forecasts indicate that Arctic Sea ice may shrink by up to 50 percent in summer months by the year 2050. This could have truly devastating consequences for our Nation's water supplies.

Under the UC-Santa Cruz researchers' models, in 2050, the West Coast, from southern British Columbia to southern California, could receive 30 percent less rain than it does now.

And this is not just a problem for California. The research models show that the melting ice could decrease precipitation as far inland as the Rocky Mountains.

The water infrastructure in the West, particularly in California, is already stretched to the limit this year. Even now we are struggling to provide enough water for our communities, farms, forests, fish, and wildlife. What would we do with 30 percent less precipitation?

The Santa Cruz study is not the only one forecasting reduced water supplies in the West. In fact, many global and regional statistical models agree that the West will see reduced snowpack as a result of rising temperatures.

Under those models, California and the West will receive more winter rain and less snow meaning two things for Western States—increased flooding in the winter and water shortages in the summer.

We are not talking about minor effects.

In February of this year, scientists at the Pacific Northwest National Laboratory forecasted reductions in snowpack of up to 70 percent in the coastal mountains over the next 50 years as a direct result of warming temperatures.

In the West, our water infrastructure is based on the gradual melting of snowpack throughout the spring and summer. A 70-percent decline in snowpack would be catastrophic.

The evidence is also mounting that climate change threatens not only our water supplies, but also global biodiversity.

A report published in the January edition of the British journal Nature estimates that 25 percent of Earth's plant and animal species will be wiped out in the next 50 years if global temperatures continue to rise as expected.

This means that more than 1 million of the estimated 5 million land species could face extinction within our children's and grandchildren's lifetimes.

It is time to take global warming seriously and reduce our greenhouse gas emissions. The consequences of delaying and deferring decisions are severe.

As a country with only 4 percent of the world's population, but which produces 25 percent of carbon dioxide

emissions, the United States has a responsibility to act.

And yet, there are many steps we can take—steps which are broadly supported—that will help protect the environment.

For example, we should continue to promote the production and use of hybrid cars. A few simple steps such as opening up carpool lanes and municipal parking spaces to hybrid cars will encourage motorists to buy these environmentally friendly automobiles.

Congress should also act to bring corporate average fuel economy standards of light-duty trucks and SUVs in line with the requirements for cars.

This one action alone could save a million barrels of oil a day and prevent about 200 million tons of carbon dioxide from entering the atmosphere each year.

We also know that investments to improve the environment like these pay off.

A study released by the President's Office of Management and Budget last fall found that the social and health benefits of enforcing strong clean-air regulations were five to seven times greater than the costs of adhering to the rules.

The study estimated that, during the 10-year period from October 1992 to September 2002, between $120 billion and $193 billion were saved in reduced hospital stays, emergency room visits, premature deaths and lost workdays as a result of improved air quality.

Just as we have asked so many nations around the world to assist us in the war on terror and in securing and rebuilding Iraq, so, too, should we help those nations who want our assistance in addressing global environmental problems.

On this 35th Earth Day we are reminded here in the Congress of the importance of protecting the planet for future generations.

It is my hope that we will step up and meet this responsibility.

Mr. DURBIN. Mr. President, today marks the 34th anniversary of the designation of April 22 as Earth Day. It is fitting to contemplate the words of former Senator Gaylord Nelson of Wisconsin, who, in 1970, was instrumental in launching this now annual event. Thanks to his determination, what began as a nationwide ''teach-in'' on college campuses and in American communities to catalyze growing public awareness of ensuring a livable world, has become a traditional day devoted to raising public consciousness about our environmental stewardship responsibilities.

Senator Nelson observed that ''(t)he real loser in man's greedy drive is the youth of this country and the world. Because of the stupidity of their elders, the children of today face an ugly world in the near future, with dangerous and deadly polluted air and water; overcrowded development; festering mounds of debris; and an insufficient amount of open space to get away from it all. Since youth is again the great loser, perhaps the only hope of saving the environment and putting quality back into life may well depend on our being able to tap the energy, idealism, and drive of the oncoming generation.''

Senator Nelson's reflections and the fact that today is Earth Day provide an opportunity to offer a special salute to the initiatives of a remarkable young native son of Illinois. Less than 3 miles away in the District of Columbia, within the shadow of this Capitol, hundreds of local volunteers led by a dynamic crew of young Illinoisans have spent the last 3 weeks tackling the tons of trash along the shores of the Anacostia and Potomac Rivers—soda cans and bottles, snack bags, styrofoam, and just about anything else you can imagine.

This Capital River Relief Project is spearheaded by Chad Pregracke, an industrious and impressive young man from East Moline, IL, who founded Living Lands and Waters, a non-profit organization to support his Mississippi River Beautification and Restoration Project to collect and recycle debris. Over the past seven years, Chad's work has expanded from the Mississippi River to include clean-up projects on the Illinois, Ohio, Missouri, and currently the Anacostia and Potomac Rivers. What began as a ''one man and his dog with one boat'' clean-up effort has grown to an eight-state, 56-community project with thousands of volunteers and an estimated 900 tons of trash removed from the waters and banks of several major American rivers.

Doug Siglin, Director of the Chesapeake Bay Foundation's Anacostia River Initiative, has partnered with Chad in the local effort. Numerous corporate backers, led by Koch Industries, have provided financial support for the project.

Many organizations host annual river clean-up projects along both the Potomac and Anacostia Rivers. However, this year's clean-up effort is different. For the first time, a 140-foot barge is being moved up and down both the Potomac and Anacostia Rivers, cleaning 30 miles of riverbanks. The barge serves as a temporary repository for all the garbage and materials collected from the rivers.

As of April 19, Chad, his crew, and volunteers have loaded the barge with 2,800 bags filled with trash, along with 746 tires, 25 55-gallon barrels, 12 shopping carts, 7 refrigerators, 6 messages in bottles, 3 water heaters, and 1 mannequin hand gathered from the banks and water. When the project concludes this weekend, all recyclable items will be taken to recycling facilities. Anything remaining will be taken to conventional landfills.

Chad has received numerous awards for his efforts, including an honorary doctorate degree from St. Ambrose University in Davenport, Iowa, the Jefferson Award for Public Service, and the Manhattan Institute of Public Policy's Social Entrepreneurship Award. He also has been featured in an array of publications including People, Time, Reader's Digest, Outside, Smithsonian, and Biography magazine, which included Chad in its ''Top Ten Future Classics in America'' issue. Several networks have highlighted Chad's work including CNN, the National Geographic Channel, MTV, and PBS.

In tandem with the clean-up drives, Chad's organization last year hosted 15 free, Big River Education Workshops from St. Louis, Missouri, to Davenport, Iowa, aboard a floating barge classroom. The workshops drew 295 teachers and river advocates, who then shared the knowledge and experience with the thousands of students whose lives they touch.

Although Chad and his crew will be returning to the Midwest soon, they will leave behind not only cleaner local river shorelines, but a bevy of fans inspired by the realization that one person's vision, combined with muscle and resolve, can make a real difference. I applaud Chad Pregracke and his team of Lisa Hoffman, Erick Louck, Tammy Becker, Chris Fenderson, and Kim Erndt.

Not only on Earth Day, but every day, I hope what they have set in motion for restoration of the historic waterways in our Nation's capital will be contagious.

We owe it to our children and our children's children to restore and preserve all of the priceless waterways throughout our country, which sustain the lives of many fish, birds, and other species, provide abundant recreational opportunities, and help support not only our economy but our precious earth, 70 percent of which is covered in water, the building block of life.

Mr. FEINGOLD. Mr. President, Wisconsin has inspired some of the greatest conservationists this Nation has ever known. Wisconsinites have had a powerful influence on the environmental movement. I now hold the Senate seat held by Gaylord Nelson, the founder of Earth Day, and a man for whom I have the greatest admiration and respect. I am pleased that Wisconsin can lay claim to the genesis of Earth Day, a day of national and international remembrance of the importance of our natural resources and a clean environment. I know that the people of Wisconsin, living in such a beautiful and ecologically diverse State, feel a special connection to our natural resources and share a long tradition of our State government achieving excellence in its conservation policies.

I want to take this opportunity to congratulate Gaylord Nelson, a former member of this body and a distinguished former Governor of the State of Wisconsin, and a recipient of the Presidential Medal of Freedom, for changing the consciousness of a nation. He is the living embodiment of the principle that one person can literally change the world.

During his 18 years of service in the Senate, Gaylord Nelson brought about significant change for the ''greener'' in both our Nation's law and the institution of the Senate itself. He is the coauthor of the Environmental Education Act, which he sponsored with the senior Senator from Massachusetts, Mr. KENNEDY, and the Wild and Scenic Rivers Act, and he sponsored the amendment to give the St. Croix and the Namekagon Rivers scenic protection. In the wake of Rachel Carson's book ''Silent Spring,'' Gaylord Nelson, along with Senator Philip Hart of Michigan, directed national attention to the documented persistent bioaccumulative effects of organochlorine pesticides used in the Great Lakes by authoring the ban on DDT in 1972. He was the primary sponsor of the Apostle Islands National Lakeshore Act, protecting one of northern Wisconsin's most beautiful areas.

And Senator NELSON, of course, was the founder of Earth Day. Thanks to him, here we are, 34 years later, taking time out of our lives to think about conservation. Earth Day is an event which in addition to changing the environmental consciousness of the country literally stopped the Senate. Members of both bodies voted to adjourn their respective Houses in the middle of the legislative week to attend Earth Day events, an adjournment that would be extremely rare today. Here in this body, the CONGRESSIONAL RECORD indicates, at 3:31 pm. on Tuesday, April 20, 1970, our colleague the senior Senator from West Virginia, Mr. BYRD, adjourned the Senate until Friday, April 23, 1970. In the other body, Chamber action was adjourned from the middle of the day on April 21, 1970, the actual date of the first Earth Day, through April 23 of that year.

In addition to Gaylord Nelson, the list of Wisconsin environmentalists includes Sierra Club founder John Muir, whose birthday is the day before Earth Day. Also notable is the writer and conservationist Aldo Leopold, whose Sand County Almanac helped to galvanize the environmental movement. Finally, Wisconsin also produced Sigurd Olson, one of the founders of the Wilderness Society.

Conservation is part of our culture in Wisconsin, and the people Wisconsin are very environmentally savvy. Every year I hold a town hall meeting in each one of Wisconsin's 72 counties, and protecting the environment is a top issue.

Earth Day has become an important part of who we are. From Milwaukee, WI, to Mumbai, India, millions of people across the world are taking Senator Nelson's legacy to heart. They are volunteering this weekend to conserve the environment—whether it is in their backyard, local river, or park.

I hope that on this Earth Day 2004, the Congress will re-dedicate itself to achieving the bipartisan consensus on protecting the environment that existed for nearly two decades. The Clean Water Act, for example, passed the U.S. Senate in 1971 by a vote of 86 to 0. When President Nixon vetoed it, the Senate overrode his veto, 52 to 12. The Endangered Species Act, which is under such attack right now, was passed by the Senate on a 92 to 0 vote in 1973.

Unfortunately, during the course of this congressional session we have faced numerous proposals to roll back the environmental and health and safety protections upon which Americans depend. From clean water to clean air, the list of environmental rollbacks is stunning and disturbing. We need to work together to protect the environment, not revert to the times when we saw the Cuyahoga River catch fire, when at least one of the Great Lakes was considered ''ecologically dead,'' and when dumping of toxic wastes into rivers was standard operating procedure.

In the upcoming months, I hope that Wisconsinites and citizens across America use this Earth Day to collect their thoughts and voice their opinions about pending Federal legislation and its impact on the environment. Wisconsinites value a clean environment, not just for purely aesthetic or philosophical purposes, but because a clean environment ensures that Wisconsin and the United States as a whole remains a good place to raise a family, start a business, and buy a home. It is important on this Earth Day 2004 that we keep the need for strong environmental laws in mind. Let's continue to move forward, not roll back.

Mr. THOMAS. Mr. President, I am pleased to share my views about the environment on Earth Day. I know many Members in this body support efforts to clean up our environment.

Earth Day 2004 is the ideal time to recognize just how much our environment has improved. Over the last 3 years, the focus has been on results—making our air, water, and land cleaner. To get to that point and to keep improving in the future, we need to employ the best science and data available for decision-making. Our policies should encourage innovation and the development of new, cleaner technologies.

We should continue to build on America's ethic of stewardship and personal responsibility through education, volunteer opportunities, and in our daily lives. Opportunities for environmental improvements are not limited to Federal Government actions. States, tribes, local communities, and individuals must be included.

Over the last 30 years, our Nation has made great progress in providing for a better environment and improving public health. In that time, our economy grew 164 percent, population grew 39 percent, and our energy consumption increased 42 percent. Yet air pollution from the six major pollutants decreased by 48 percent. In 2002, State data reported to EPA showed that approximately 251 million people, or 94 percent of the total population, were served by community water systems that met all health-based standards. This number is up from 79 percent in 1993.

Others areas of the environment can also be improved. I have introduced legislation to clean up old abandoned mine sites. While we have done a good job in addressing this problem, we can do better. I have a very simple solution to deal with this problem that will make our communities safer.

The United States is holding $1 billion of money due States and tribes to clean up abandoned sites, and deal with problems associated with coal mining activities. The money has already been collected and allocated, but not yet appropriated. There is no justification for Congress to continue to hold this money. States are pleading for help to fix abandoned mine problems that will make communities safer and healthier for their citizens. It is unfortunate their pleas are being disregarded.

This is a specific issue where we can make a huge dent in the problem today, right now. I ask Members to listen to the pleas of communities and immediately appropriate the $1 billion due States and tribes. If my colleagues care about the environment and want to clean up these cities, join me and we will get that money released.

Let's show the American public that statements made in support of the environment are not political rhetoric and truly reflect the positions and feelings of Members. We can get this done today, and I ask each of you my colleagues to join me in making this happen on Earth Day 2004.

There is no doubt that environmental progress is continuing. The facts are unequivocal: Today the Nation's environment is cleaner and healthier than it was 3 years ago. We are getting results more quickly and more substantially by reforming outmoded, command-and-control mandates that hinder environmental progress. We have been able to accomplish this with innovative, market-based approaches that harness the power of technology to achieve maximum environmental benefits.

TRIBUTE TO THE LATE SENATOR THOMAS WARD OSBORN

Mr. GRASSLEY. Mr. President, today I would like to speak of a man who was instrumental in the completion of the Washington Monument, a former Senator from Florida, Thomas Ward Osborn. The cornerstone of the Washington Monument was laid July 4, 1848, but the monument itself was not completed and opened to the public until October 9, 1888. The construction of the memorial was stopped in 1856 due to the Civil War, a lack of funding, and political difficulties within the Washington Monument Society.

Senator Thomas Ward Osborn was instrumental in passing the legislation required to complete the monument

after the Civil War. Many were reluctant to finish funding the project because of technical issues related to the construction and the perception among some that it was a waste of money. S. 245, a bill to secure the completion of the Washington and Lincoln Monuments, was introduced on the Senate floor by the Honorable Thomas Ward Osborn on April 1, 1869. Through Senator Osborn's efforts, this legislation was enacted and construction of the Washington Monument quickly resumed. The design of the monument was altered to remove much of the embellishment in the original design and the result was the 555 foot obelisk that is so recognizable today as the symbol of an exceptional man and an exceptional Nation.

Senator Thomas Ward Osborn was motivated out of a sense of patriotism and a desire to create a permanent reminder for posterity of the character of George Washington. It is important for citizens to retain a link to their country's origins in order to fully engage in civic life in the present. To understand the exceptional nature of Washington's character is to understand the exceptional nature of the United States as a Nation.

I believe that Senator Thomas Ward Osborn deserves recognition for his vital efforts in seeing to the completion of the Washington Monument. In fact, I have written to the Department of the Interior urging that some form of recognition, such as a plaque, be provided to remind visitors of Senator Osborn's efforts. It is my understanding that the regional director for the Park Service National Capitol Region has since directed the chief of Visitor Services to research Senator Osborn's efforts and share that information with the park rangers whose job it is to help interpret the monument for visitors. The late Senator Thomas Ward Osborn played a key role in seeing that George Washington received the recognition he deserves, and now it is my hope that Senator Osborn will receive the recognition he deserves.

89TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. LEVIN. Mr. President, this year I once again come before the Senate to pay tribute to those who lost their lives or were forced from their homeland as a result of the horrific genocide perpetrated against the Armenian people from 1915 through 1923. During those years, the Turkish Ottoman government used the outbreak of World War I as a pretext for subjecting its citizens of Armenian descent to deportation, abduction, torture, massacre, and starvation. The land on which some of the Armenians had lived for generations was expropriated from them. It is imperative for the American people and for people around the world to commemorate this tragedy, with the hope that by remembrance we will advance the day when the world will no longer witness such horrors.

Over one million Armenians perished as part of a deliberate campaign of murder in the waning days of the Ottoman Empire. Armenians, given that they were neither Turks nor Muslims, were treated as threats, even though the Armenians had been exemplary citizens and had lived together peaceably with their Turkish neighbors for centuries. April 24th is the date chosen to commemorate this genocide, since it was on that day in 1915 that government leaders rounded up 300 Armenian leaders, writers, thinkers and professionals for their deportation and for many, their deaths. While the preeminent members of the Constantinople's Armenian community were being rounded up on that day, 5,000 others were slaughtered in their homes and on the streets.

Many Western, democratic nations became aware of the ruthless targeting of the Armenian population yet did not act to stop it. In May 1915, Great Britain, France, and Russia advised the Turkish leaders that they would be held personally responsible for this crime against humanity. Later that year, Henry Morgenthau, the American Ambassador to the Ottoman Empire, cabled the State Department saying, ''Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.'' His successor, Abram Elkus, wrote in 1816 that, ''. . . unchecked policy of extermination through starvation, exhaustion, and brutality of treatment hardly surpassed even in Turkish history.''

In addition to the government records decrying the events in the Ottoman Empire, historians have been able to record the memories of the victims. It is important to share these stories, to ensure that the subsequent generations can truly understand the appalling conditions under which their ancestors both perished and survived. The Genocide Project, an effort by the San Francisco Bay Area Armenian National Committee, has done a remarkable job of compiling oral and visual documentation from some of the survivors.

Edward Racoubian told the project how when, ''We reached the Euphrates River and despite the hundreds of bodies floating in it, we drank from it like there was no tomorrow. We quenched our thirst for the first time since our departure. . . . Of a caravan of nearly 10,000 people, there were now only some 300 of us left. My aunt, my sisters, my brothers had all died or disappeared. Only my mother and I were left. We decided to hide and take refuge with some Arab nomads. My mother died there under their tents. They did not treat me well—they kept me hungry and beat me often and they branded me as their own.''

''Sometime later, Turkish gendarmes came over and grabbed all the boys from 5 to 10 years old. I was about 7 or 8. They grabbed me too,'' Sam Kadorian said. ''They threw us all into a pile on the sandy beach and started jabbing us with their swords and bayonets. I must've been in the center because only one sword got me . . . nipped my cheek . . . here, my cheek. But, I couldn't cry. I was covered with blood from the other bodies on top of me, but I couldn't cry. If had, I would not be here today.''

I believe the highest tribute we can pay to the victims of a genocide is by acknowledging the horrors they faced and reaffirming our commitment to fight against such heinous acts in the future.

In commemorating the tragedy of the genocide today, I would also like to recognize the fact that yesterday Canada's House of Commons, took the courageous step of officially recognizing that the events initiated on April 24, 1915, were in fact a genocide and crime against humanity. It is my hope that all people of goodwill will join in calling this tragedy by its correct name—a genocide. I hope that our colleagues will join me in commemorating this tragedy and vowing to honor and remember the innocent victims of the Armenian genocide.

Mr. REED. Mr. President, I rise today with my colleagues, my fellow Rhode Islanders, and our Armenian American community to observe the 89th anniversary of the Armenian Genocide.

At this time, it is fitting that we reflect on this tragic event in order to ensure that future generations remember and learn from the pain and suffering of those who came before us.

The Armenian Genocide was a demonstration of evil. From its genesis on April 24, 1915, through the end of 1923, nearly one and a half million Armenians were killed and over a half a million survivors exiled.

All the while, the United States Government, too busy trying to defeat the Austro-German alliance and attempting to stay out of a war in Europe, ignored these atrocities. The United States Ambassador to Turkey, Henry Morgenthau, Sr., attempted to bring the tragic string of events to a climax, pleading with both President Wilson and Secretary of State Robert Lansing to get involved. Former President Theodore Roosevelt, frustrated by a lack of response from his own government, petitioned President Wilson on 24 November 1915, saying ''Until we put honor and duty first, and are willing to risk something in order to achieve righteousness both for ourselves and for others, we shall accomplish nothing; and we shall earn and deserve the contempt of the strong nations of mankind.''

Unfortunately, the Armenian genocide was only the first of several 20th century tragedies—the Nazi extermination of the Jews and others during

the Second World War; Pol Pot and the Khmer Rouge's slaughter of nearly two million Cambodians in the mid-1970s; the Hutu massacre of the Tutsis in Rwanda in the summer of 1993; and, at the same time, the Serbian annihilation of Bosnian Muslims in Bosnia from 1993 to 1995.

Thus, as we reflect on this atrocity, let us call for our own country to recognize the Armenian Genocide, just as my own State of Rhode Island has done, and as the parliaments of Belgium, Canada, Cypress, France, Greece, Italy, Lebanon, Russia, and Sweden have done over the past 6 years. Let us also pledge never to ignore atrocities by those who claim the legitimacy of government. We must never ignore and we will never forget.

IN SUPPORT OF S. RES. 330

Mr. FEINGOLD. Mr. President, I rise to express my support for S. Res. 330, which expresses the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries, OPEC, cartel and non-OPEC countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices.

I am proud to again be a cosponsor of this resolution. In the 106th Congress, I was a cosponsor of a virtually identical resolution along with, among others, the current Secretary of the Department of Energy. Unfortunately, the need to stand up to OPEC is even more pressing today than it was two Congresses ago.

Ensuring access to and stable prices for imported crude oil for the United States and major allies and trading partners of the United States is vital to United States foreign and economic policy. Regrettably, the 2004 OPEC production cuts have resulted in outrageous increases in oil prices. The eleven countries that make up OPEC produce 40 percent of the world's crude oil and control three-quarters of proven reserves, including much of the spare production capacity. When OPEC instituted its production cut in February 2004, it reduced production by 2,000,000 barrels per day. From February to March 2004, crude oil prices have gone from $28 per barrel and now exceed $38 per barrel.

High gasoline prices are inextricably linked to high crude oil prices. And these high oil and gas prices hurt Americans across the Nation and from all walks of life. Farmers, teachers and small business owners are among those getting hit hard by these skyrocketing costs. For gasoline, the increases in crude oil prices have resulted in a pass-through of cost increases at the pump to an average national price of $1.80 per gallon. These are the highest gas prices we have seen in 13 years.

We cannot allow this foreign oil cartel to wreak havoc on our economy. The President should use diplomatic pressure to urge OPEC to increase production. The actions of this cartel have real consequences for Americans. And in an already shaky economy, high oil and gas prices can put working families over the financial edge.

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.

A lesbian couple was assaulted by a group of men and women outside a Scottsdale, AZ, bar on April 4, 2004. The assailants called the couple derogatory names and beat one of the women and ripped the other woman's dress and then took photographs of her exposed breasts.

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.

NATIONAL PRIMARY IMMUNE DEFICIENCY DISEASES AWARENESS WEEK

Mr. DURBIN. Mr. President, I rise today to ask my colleagues to join me in recognizing the week of April 19 as National Primary Immune Deficiency Diseases Awareness Week. Primary immune deficiency diseases, PIDD, are genetic disorders in which part of the body's immune system is missing or does not function properly. The World Health Organization recognizes more than 150 primary immune diseases which affect as many as 50,000 people in the United States. Fortunately, 70 percent of PIDD patients are able to maintain their health through regular infusions of a plasma product known as intravenuous immunoglobulin, IGIV. IGIV helps bolster the immune system and provides critical protection against infection and disease.

I am familiar with primary immune deficiencies because of a family in my State, the Jones family, whose daughter, Emma, was born with common variable immune deficiency, CVID, and hypogammaglobulinenimea. Emma has no immune system and relies on IGIV infusions every month to keep her alive. Emma, 9 years old, is a patient at Duke University Medical Center, and is hoping to be a candidate for a stem cell transplant. Emma's mother, Jill, also has CVID and receives IGIV infusions. The Jones family has become active volunteers for the Immune Deficiency Foundation, to help other families facing PIDD in my home State of Illinois.

I would also like to tell you about another courageous family in my State, the Berryhills, who became foster parents to an infant that was finally diagnosed with severe combined immune deficiency, SCID, or bubble boy syndrome. Their son, who they want to adopt, would have died if Zina and Ray Berryhill did not persist in finding out why he was dying before their eyes. Their son was finally diagnosed with SCID, and the cure for him is a bone marrow transplant. Unfortunately, they have not been able to find a match, due to the shortage of African Americans on the Marrow Donor List. Zina Berryhill continues to hold bone marrow drives, and keeps her son isolated, except for his frequent trips to the hospital for his IGIV infusions. The Berryhill family has also become active volunteers for the Immune Deficiency Foundation.

Despite the recent progress in PIDD research, the average length of time between the onset of symptoms in a patient and a definitive diagnosis of PIDD is 9.2 years. In the interim, those afflicted may suffer repeated and serious infections and possibly irreversible damage to internal organs. That is why it is critical that we raise awareness about these illnesses within the general public and the health care community.

I commend the Immune Deficiency Foundation for its leadership in this area and I am proud to join them in recognizing the week of April 19 as National Primary Immune Deficiency Diseases Awareness Week. I encourage my colleagues to work with us to help improve the quality of life for PIDD patients and their families.

FIVE-YEAR ANNIVERSARY OF COLUMBINE

Mr. LEVIN. Mr. President, this week marks the 5-year anniversary of the tragic shooting of 12 students and one teacher at Columbine High School in Littleton, CO. The very mention of Columbine High School strikes a nerve with the American public. It reminds us of that horrendous scene of terrified children running from their assailants as SWAT teams descended on their school.

Earlier this week, students, parents and residents of Littleton gathered at Columbine High School to remember those who died and renew their commitment to address school violence. The anniversary brought back painful memories. Michael Shoels, the father of student Isaiah Shoels, who was killed in the shooting, told the Associated Press, ''It's most definitely something I think about every day but, you know, we can't wallow in victimhood. Under the circumstances, we need to get out there and do something about it.''

In response to this massacre, many schools have implemented security

measures such as posting in-school police officers, installing security cameras and metal detectors, and developing emergency response programs. But a recent report from the National School Safety and Security Services, a firm specializing in school security and school safety for K–12 schools, found an increase in school-related violent deaths in the 2003–2004 school year. According to the report, there have been 43 violent deaths nationwide this school year, more than the previous 2 years combined and more than any school year prior to Columbine. In addition, there have been more than 60 non-fatal shootings this year and more than 160 other incidents of high-profile violence, such as stabbings and riots. This is simply not acceptable.

Despite continued school violence, the President has not led on this issue and Congress has also failed to enact sensible gun safety laws that could help to turn the tide. In fact, President Bush's budget proposes eliminating funding for the COPS school resource officer program. We have yet to close the gun show loophole, despite bipartisan support in the Senate. And, while the President has said he supports reauthorizing the assault weapons ban and a bipartisan majority in the Senate is on the record supporting reauthorization there are no plans to consider this important legislation before it expires on September 13 of this year.

America's schools need our help and these are simple, commonsense steps we can take to improve school safety. I urge my colleagues to close the gun show loophole, keep the ban on assault weapons, and restore funding for COPS school resource officers. As the end of another school year approaches, the push to enact sensible gun safety legislation must continue.

100TH ANNIVERSARY OF THE AMERICAN LUNG ASSOCIATION

Mr. DURBIN. Mr. President, I am pleased to rise today recognizing the 100th anniversary of the American Lung Association.

For a century, the American Lung Association has been addressing some of the Nation's most pressing health issues. In 1904, a dedicated and hard-working group of physicians, nurses, and volunteers came together with the goal of eradicating tuberculosis. The result was one of the Nation's oldest community-based, voluntary health organizations, and its fight against tuberculosis has produced amazing results throughout the 20th century.

When the American Lung Association realized there was a new and dangerous problem facing the Nation—that of chronic lung disease—it began to shift focus away from TB and toward healthy lungs. Soon, the Lung Association had one of the most extensive programs for fighting lung disease in the Nation.

Using a multi-faceted approach, the American Lung Association works in the areas of research, education, and advocacy. It has courageously battled tobacco companies for the past 40 years, though its position was not always a popular one. Furthermore, the Lung Association, concerned about environmental factors such as air pollution, was a leader in passing the 1970s Clean Air Act.

Our Nation is a better place and our families are healthier because of the work of the American Lung Association. I am proud to congratulate the association, and I ask my colleagues to join me in formally acknowledging their fine work.

ADDITIONAL STATEMENTS

TRIBUTE TO THE CITY OF ASHLAND, KY

● Mr. BUNNING. Mr. President, today I would like to take the opportunity to congratulate the leaders in Ashland, KY who contributed to the downtown revitalization of the city. Ashland was one of 31 cities in Kentucky that received national recognition for its efforts in historic preservation on Tuesday, April 20, 2004.

First Lady Laura Bush presented the Preserve America recognition award to Ashland Mayor, Steve Gilmore, and Main Street Board President, Larry Jones. The initiative recognizes communities that protect and celebrate their heritage, use their historic assets for economic development and community revitalization and encourage people to experience and appreciate historic resources through education and tourism programs.

Of the 65 ''Preserve America'' U.S. communities that the First Lady Laura Bush has designated, 31 are in Kentucky. In President Bush's proposed budget for fiscal year 2005, he included $10 million for Preserve America communities. Ashland will be eligible to compete for some of the money Congress appropriates.

The large number of Kentucky communities honored by the First Lady shows how important preservation is in Kentucky, and I commend these communities for their hard work and dedication to the various projects. I join all Kentuckians in congratulating Mayor Gilmore and the city of Ashland on their beautiful downtown revitalization.●

RECOGNITION OF DANIEL T. BRANTON

● Mr. COCHRAN. Mr. President, I am pleased to commend Daniel T. Branton of Leland, MS, for his distinguished service as president of Delta Council this year.

Delta Council is an economic development organization representing the 18 Delta and part-Delta counties of Northwest Mississippi. Organized in 1935, Delta Council has worked to bring together the agriculture and business leadership of the region to focus on the challenges which face the economy and the people of the Mississippi delta.

Ad president of Delta Council and a farm leader, Dan has been a strong proponent of maintaining the agricultural policies which were adopted in the 2002 Farm Law. As a representative voice of farmers from the Delta region which produces more than $3 billion of agricultural goods annually, Dan's advice on matters affecting agriculture has been invaluable to me and my staff as we attempt to address those issues which will ensure the future viability of American agriculture.

Dan has been a strong proponent of Delta Council's programs in education and health care. During Dan's year as president, the teacher shortage programs which evolved from earlier Delta Council policies have expanded in a way that is having a meaningful impact on the problem of attracting school teachers to rural areas.

I am pleased that I have had the opportunity to work with Dan and Delta Council to make certain that special health care needs in areas such as the Mississippi Delta, where there is a large underserved population, have been enhanced. Through Delta Council's efforts to establish the Delta Health Alliance, a new Federal and local partnership is now producing extraordinary outcomes. In the area of transportation and water resource improvement, Dan has coordinated the activities of Delta Council in a manner which has brought local consensus to very touch issues facing the Delta's economic future. Dan has been a leader in all aspects of Delta Council's work while maintaining a successful family farming operation.

Dan has also been a leader in his community. He currently serves as president of Burdette Gin Company and is a director of Leland Compress. He is also a delegate and has served as a director of the National Cotton Council. Dan serves on the Black Bayou Drainage Commission and is a former member of the Advisory Board for the Mississippi Department of Agriculture and Commerce.

I congratulate Dan Branton for his contributions to the Delta region, the State of Mississippi, and the Nation. I look forward to his future contributions in improving the quality of life for our citizens.●

IN TRIBUTE TO JOHN PALMS

● Mr. HOLLINGS. Mr. President, John Palms, the former president of the University of South Carolina, will be honored this week with Mepkin Abbey's newly established Wisdom Award.

All of us in the Senate would be a little wiser ourselves to read the following article from the April 10 Charleston Post and Courier, on Dr. Palms. He is an inspiration to all that the American dream is alive and well. I ask that the article be printed in the RECORD.

The article follows.

[From the Charleston Post and Courier, Apr. 10, 2004]

JOHN PALMS—NUCLEAR PHYSICIST LEADS THE WAY IN SCIENCE, EDUCATION, RELIGION AND THE WORLD STAGE

(By Judy Watts)

''Learning humanizes character and does not permit it to be cruel'' is the University of South Carolina motto.

The words also epitomize John Palms' philosophy, not only as the former USC president, but as a physicist and a human being.

Although his formal training is in nuclear physics, his life events have given him an educated perspective on physics' ambiguous nature, both in the weapons he designed and in the research, which had medical applications. As president of two universities, he fulfilled his destiny as an educator who believed in building not only well-educated people, but also people of character.

On April 24, Palms will be presented with Mepkin Abbey's newly established Wisdom Award, given for a lifetime of achievement based on the highest human aspirations. Since his years as a cadet at The Citadel, Mepkin Abbey has been a personal touchstone, a place where he has been able to focus and center his life.

John Palms has come a long way from the little dutch boy who fled a Hitler-terrorized Europe with his family.

MAKING OF THE MAN

It was 1939 and Hitler had invaded Poland. John Palms was 4 years old and sandbags were being piled on the front lawn in anticipation of war. Palms; father, deciding it was dangerous for the family to remain, concocted a story that they needed to travel to South America to buy wool for his underwear factory that supplied the Dutch military.

''The North Sea had been mined and there were severe restrictions about visas,'' says Palms.

The family took a train to Italy and from there a boat headed for South America. En route, a submarine stopped the boat and someone was taken off, says Palms.

''I remember commotion and crying. My father has 8-mm film of the submarine.''

For seven months the family lived in Rio de Janeiro until they could obtain visas to continue on to New York, where they arrived in February 1940. They waited out the war there.

When Palms was 11, the family returned to Holland to get restitution for the family's damaged textile factory and haberdashery.

''We didn't want to go back because we were already Americanized.''

Once in Holland, he and his siblings were faced with an academic hardship.

''We spoke Dutch in our house in New York, so when we went back I could speak Dutch but could not read a word of it.

''I was home-schooled for awhile and then tutored by the Jesuits.''

At 14, he passed the comprehensive exam to get into St. Aloysius College at The Hague.

''I wasn't an outstanding student. I was excited about being in a different country. There was lots of talk about the war when we returned to Holland.''

Palms heard firsthand stories of Buchenwald from his uncle who had been arrested for helping Jews escape from the Nazis.

''His own neighbor told on him and he was taken to Buchenwald. There was such fear that even if you knew about something and didn't report it, you were at risk. But he survived. Every time I see a German movie, I have to watch it, and I read anything I can find on the concentration camps and Buchenwald.''

The taste of American culture so prevalent in postwar Hollard fueled the family's desire to return to the United States. In 1951, they came back and settled in Clearwater, Fla.

Palms graduated from Clearwater High School with no plans for the future.

''I decided to do nothing. I was over-Americanized by all the American movies where people raised themselves up by their bootstraps. I never got the message that you needed an education. I thought I would find some opportunity by being ingenious and creative.''

His parents had not gone to college, yet his father had been a successful entrepreneur, a salesman who had bought one sewing machine, then another and another, and ended up with his own factory. Palms tried his luck first as a painter's helper, then as a plumber and first mate on a boat.

His nonplan didn't work out. When he and some friends heard about the great-paying automobile factory jobs in Detroit, they made the trip. A day after they arrived, there was a strike.

''That was a real semester of realizations for me.''

Back in Clearwater, he ran into a friend who made a suggestion. It was a suggestion that set his life on a remarkable course.

''My buddy said I could go to St. Petersburg Junior College for $50. So, I borrowed $50 from my father.''

Palms enrolled. He wanted to find out if he was capable of college work. Although he could read English, he read slowly. He pulled a C in English and did well in math and chemistry. Another suggestion from this brother was that he attend a military academy. Palms wrote to West Point and got a letter back saying he couldn't apply because he was not an American citizen. His citizenship was still two years away.

His older brother had heard about The Citadel.

''If I graduated as a distinguished cadet, I would get a regular commission and could become a pilot. The Citadel had just appointed a new president, Gen. Mark Clark, whom my dad thought was the most wonderful American. I applied to The Citadel and, sight unseen, I got in. Absolutely amazing; they must have been short of students that year.

''It was 1954. Dad drove me up to No. 2 barracks and saw those bars on the windows and in his Dutch accent said, ''Zyahn''—he couldn't say the J—'you don't have to go here if you don't want to.' I told him it was exactly what I wanted; that I needed the discipline and the structure. I signed up for Air Force ROTC.''

The plan was to get his business degree, gain his commission and become an Air Force pilot. He managed C's in English and history, but again excelled in math, science and German. He followed his strength and switched his major to physics. There were five students in the program. As planned, he graduated as a distinguished ROTC cadet.

''But I failed the eye exam, so I couldn't be a pilot. The head of the physics department and the ROTC called me in and said they would give me a commission anyway and send me to graduate school for one year. I chose Emory because they were on the quarter system and I could finish my master's in a year there.''

ACADEMIA

Two days after graduating from Emory, he was married to Norma Cannon (''the most wonderful person I ever imagined finding''), and the next few years were filled with completing his master's, teaching physics at the Air Force Academy, getting out of the Air Force and completing his Ph.D.

He went to Los Alamos Scientific Laboratory in New Mexico, where he did his dissertation and designed nuclear weapons.

''Emory kept track of me and offered me to come back as a professor. We struggled with that. I had the opportunity to go to Stanford, but Southern ladies have to come back to the South, so we did. We had a 23-year career at Emory.''

Palms worked his way through the ranks from associate professor to vice president for academic affairs more than two decades later, when he took a sabbatical. During the break, he received numerous calls from other universities that wanted him to come on board as president. Georgia State was his choice.

But he had barely settled in there when he got a call from a head hunter that the problem-ridden University of South Carolina wanted Palms as President. The decision to move was not easy and came only after a family weekend of soul-searching and discussion.

They arrived in Columbia on the Ides of March 1991. The first couple of years in Columbia were rough.

''All the qualities that are important at a university had been violated. And that affects hiring and tenure. The president is expected to be the role model. The faculty is, also. People don't understand the life of a university president. There is a moral authority,'' says Palms.

He wanted to return the university to its core: learning and the search for truth.

Within three years, USC's reputation was restored and the school was in a position to launch a major campaign. He and Norma traveled all over the country, cultivating and nurturing people who might contribute. They also developed a professional staff for financial development. Their goal was to raise $200 million. When he stepped down after 11 years, the couple had raised more than $500 million for the school.

During his tenure at USC, the SAT scores of incoming freshmen rose 150 points, hundreds of thousands in research grants were gained, and standards for hiring and tenure were raised in all 52 departments.

PHYSICS

Physics was the platform on which Palms built his career.

''All my life I have struggled with the place of modern physics in society and the morality of nuclear deterrence. Should we be using nuclear weapons to deter war?''

Palms has been chairman of IDA—the Institute for Defense Analysis—for five years and a member for 14 years.

''IDA was set up right after WWII to bring university talents into issues of national security,'' says Palms. ''It started with the presidents of Harvard and MIT and a board of military people and former congressmen.''

The group conducts independent analysis for the Secretary of Defense and for Congress.

''It (defense) can be so political, but this is really independent analysis. We do everything from evaluating and testing weapons systems to designing and forecasting.''

The issue of fighter planes and mobile-force transformations from a Cold War world to present-day needs is now being studied.

''More coordination and use of equipment among the services is becoming an integral part of what we are doing now and in the future,'' says Palms. ''We are heavily involved in homeland security right now, and we are also heavily involved in Iraq—the whole operation. We are mainly sitting there looking at what needs to be done and standing ready to do these studies.''

IDA also works on advanced computer systems and mathematics for cryptology.

''You have the very best minds in the world to do this. Every two years, we take 20 of the very best Ph.D.s in universities and orient them to this work.''

After two years of site visits and orientation, new members are assigned to a committee.

Palms became involved in IDA, in part, because he had developed systems at Los Alamos, and IDA needed somebody who knew about weapons. He also brought a firsthand perspective to what happened in Europe during World War II. He says he is always watchful for the signs of a similar situation emerging.

''When I was at Los Alamos (1963–66), I worked on weapons design and fundamental physics research, which could have been used for weapons development, or input to medicine, the environment, ecology or therapeutic medicine. So, even though funded by the Department of Defense, the results are there for the world to use the way it wants to. Just because the research is used in nuclear weapons, you shouldn't stop doing it because it is also used in all these other areas.

''There is the issue of a two-edged sword. As a scientist, you have the obligation to make the public aware and anticipate how the information should be used, whether it is proper to use it one way or another.''

Such discussions of religion and science were a familiar topic that he and the late Cardinal Joseph Bernardin often considered.

''He wrote a commission report on the morality of nuclear deterrence (Time, Nov. 29, 1982, issue; titled ''God and the Bomb''). You can justify only so much deterrence. If there had been no Russia and we had been the only nuclear power, we would have to be very careful. We are living in that kind of age now. You can't overuse your power. It must always be used in response to the threat. Where's the other threat?''

Palms first met Cardinal Bernardin while a cadet at The Citadel. His wife knew Bernardin as her teacher at Bishop England High School.

''He baptized our children. It's a funny world.''

Palms is currently involved with neutrino research through USC and a consortium of 13 universities.

''Neutrino is one of the subatomic particles. People have been trying to find if it has mass or not. It might explain the missing dark matter in the universe. My role is that I built one of the first detectors. Those detectors have evolved. I'm trying to make a contribution and also helping to find funding for this. It will cost about $40 million to $50 million.''

He also continues to teach physics classes at USC, including a lab course in which the class will conduct four Nobel prize-winning experiments.

Although he didn't continue in the Air Force, he is content that he is doing his part through IDA.

''This is almost better. This is my contribution to the country and to national security, and I'm happy to be able to serve my country.''

THE HOME FRONT

Norma Palms describes her husband of 45 years as a great husband and father with a wonderful sense of humor.

''Everyone wants him full time, yet he never wants to take the credit for anything,'' she says.

Today, the couple divide their time between Columbia and their home in Wild Dunes. His retirement from USC has allowed more time for their grown children, Lee, John and Danielle, and nine grandchildren. Norma says they have looked forward to this time as a couple.

''The time to be with our children and grandchildren has been very special,'' she says. ''We can take off and go see the grandchildren on their birthdays and for holidays. We couldn't do that before. We especially look forward to getting everyone together for family reunions here at the house.''

The couple are very involved at their church, St. Thomas More, and served as honorary chairs for the church's recent 50th-anniversary celebration.

Mepkin Abbey also is part of their spiritual life. In fact, Palms sees a link between the abbey and finding Norma.

''When I was 21, I was ready to make a serious commitment to someone and went to Mepkin Abbey and prayed about that. I was trying to find out if I was doing the right thing with my life. Two weeks later I met Norma.''

Today, the couple go to the abbey together, then they take different paths and read alone in the gardens.

''We contemplate our lives and come back together and get rededicated again. We think a lot of the brothers. Their spirituality has been important in our lives,'' says Norma.

Palms says he is honored to receive the Wisdom Award from Mepkin Abbey.

''I have a lot more years to live, and there are many people who have done a lot more for the state for a lot longer than I have. This is a wonderful honor from them.''

Chairman of the award committee, Dr. Theodore Stern, says Palms was chosen because of his abilities as a team leader.

''He's very dedicated and has made a tremendous contribution to the academics of South Carolina. He is an outstanding individual and leader and has worked on so many education and government commissions,'' says Stern, ''and his wife, Norma, also has been a leader.''

Norma headed up the abbey's capital campaign.

''My whole heart was in that. I still hold them as No. 1 on my priority list,'' she says.

Palms credits Norma's outgoing personality with softening his technocratic tendencies.

''I'm made up of everyone I've ever met and known, but Norma is the biggest influence and the most important person in my life,'' says Palms.●

HONORING EAST BRUNSWICK HIGH SCHOOL'S SUCCESS IN ''WE THE PEOPLE'' PROGRAM

● Mr. LAUTENBERG. Mr. President, more than 1,200 students from across the United States will descend upon Washington, DC, from May 1–3, 2004, to compete in the national finals of the ''We the People: The Citizen and the Constitution'' program. This program, funded by the U.S. Department of Education, instructs our youth about the U.S. Constitution and the importance of civic participation by providing schools with textbooks that offer both historical information and critical-thinking activities.

I am proud to announce that students from East Brunswick High School in East Brunswick, NJ, have won my home State's competition and will represent New Jersey in our Nation's capital next weekend. I wish the following students, and their teacher Alan Brodman, the best of luck in the future and congratulate them on their hard work and inspiring civic advocacy: Kian Barry, Patrick Bell, Kathleen Cammidge, Jessica Castles, Jennifer Chen, Ryan Citron, Jenna Elson, Daniel Gartenberg, Scott Goldschmidt, David Goldstein, Kristen Hamaoui, Marc Mondry, Jason Noah, Eric Nowicki, Nicholas Parais, Greg Parnas, Jessica Rebarber, Joa Roux, Blake Segal, Jody Shaw, Andrew Silver, Jeffrey Smith, Daniel Temkin, Abraham Tran, Arin Tuerk, and Haiwei Wang.●

HONORING THE LIFE OF JUDGE GENE E. BROOKS

● Mr. BAYH. Mr. President, today I wish to pay tribute to the life of a distinguished public servant and a true friend, Judge Gene E. Brooks, who passed away Monday, April 19, 2004. His long life was filled with conscientious service and unwavering dedication to our State and Nation. The contributions he made to American jurisprudence, combined with the many lives he touched along the way, leave behind a positive legacy that will not soon be forgotten.

Judge Brooks began his career in public service by honorably serving our country with the United States Marines during the Korean War. He earned his undergraduate degree from the Indiana State Teachers College and went on to study law at the Indiana University School of Law. Judge Brooks practiced law as a prosecuting attorney and in private practice in Posey County, IN, from 1960 to 1968. He was then appointed to serve as the first full-time bankruptcy judge for the Southern District of Indiana, where he worked until 1979, when President Jimmy Carter appointed Judge Brooks as a United States District Court Judge. His nomination was forwarded to President Carter by my father, Senator Birch Bayh. Judge Brooks went on to become the Chief Judge of the Southern District in 1987.

The positive imprints Gene made upon the United States legal landscape came not only through his many judicial rulings, but also through his active role as advisor to the United States Congress, as well as his membership and leadership as former president of the National Conference of Bankruptcy Judges. In addition to his professional service, Judge Brooks was an active member of many community organizations, including the Indiana Legal Aid Society, the Kiwanis Club, Toastmasters, the Indiana State Museum Foundation, and the Evansville Petroleum Club. He was a Kentucky Colonel and a 32nd Degree Mason.

Judge Brooks is survived by his wife, Jan Darlene (Gibson) Brooks; his three sons, Gene E. ''Geno'' Brooks Jr., Marc E. Brooks, Gregory A. Brooks; his daughter, Stephanie Jobe; his sister, Joyce Brochman; and his three grandchildren.

Judge Brooks was a man who walked with kings, but never lost the common touch. The citizens of the State of Indiana and the United States of America were well served by the life led by the Honorable Judge Brooks. Gene was a dedicated family man and public servant. He touched many lives over the

course of his career and will be remembered as a loving husband, father, and an incredible leader.

It is my sad duty to enter the name of Gene E. Brooks in the official RECORD of the U.S. Senate. May God be with all who mourn his passing, as I know He is with Gene.●

WILLIAM SHAKESPEARE

● Mr. SMITH. Mr. President, I rise today to recognize the 440th anniversary of the birth of William Shakespeare in Stratford-upon-Avon. Shakespeare's name is undoubtedly the most recognized in English literature. Every one of us has spent time exploring the Elizabethan society and language through Shakespeare's dramas, poems, and sonnets. I remember with great enthusiasm the times I read Shakespeare or watched one of his plays. Who among us does not have their favorite line from one of Shakespeare's many works? Mine, which all of us in this chamber should pause to consider from time to time, comes from ''Hamlet Prince of Denmark'': ''This above all: to thine own self be true, and it must follow, as the night the day, thou canst not then be false to any man.''

His plays abound with all of the human emotions: love, jealousy, hatred, joy, envy, and are filled with the eternal themes of loyalty, betrayal, friendship, and revenge. He wrote of family strife, of the best laid plans gone awry, of tender love and bitter feuds. His themes transcend culture, nationality, and ethnicity. They are universal; and to this day are repeated time and time again throughout the world. From the American retelling of ''Romeo and Juliet'' in ''West Side Story'' to the Japanese adaptation of ''King Lear'' in ''Ran,'' Shakespeare's cultural influence is virtually limitless. Was William Shakespeare a visionary? Or was he simply a keen observer, chronicling human relationships that have essentially remained unchanged in the four centuries since he lived?

We, in Oregon, are very fortunate to have the renowned Oregon Shakespeare Festival which has been presenting its namesake's works, as well as other classic and contemporary plays, for nearly 40 years. Some 380,000 people—Oregonians and audiences from various parts of the country and the world—visit Ashland each year to attend these repertory performances. From the very first productions of ''The Merchant of Venice'' and ''Twelfth Night'' to this year's ''The Comedy of Errors,'' ''King Lear,'' ''Henry VI,'' and ''Much Ado About Nothing,'' the Oregon Shakespeare Festival has brought Shakespeare's magic and great wit to life.●

TRIBUTE TO COLONEL AARON ''BURLEY'' BURLESON

● Mr. NICKLES. Mr. President, on behalf of Senator INHOFE and myself, I wish to honor and pay respect to a great Oklahoman, COL (Ret) Aaron ''Burley'' Burleson. Currently, he is the director of Military Development of the Altus Chamber of Commerce, Altus, OK. He has served the State of Oklahoma and the United States for many years.

Mr. Burleson was born in Lawton, OK, and graduated from Lawton High School. While attending Cameron College in Lawton, he was mobilized for active duty with the 45th Infantry Division in 1940. After completing pilot training in 1944 at Pampa Army Airfield, TX, Burley Burleson received his commission as a second lieutenant. Over the next 30 years he would serve his country around the globe.

He served as special air missions officer in the Office of the Vice Chief of Staff, U.S. Air Force, the Pentagon. During this assignment, Burley worked directly with the White House, the Office of the Secretary of State, the Senate and the House of Representatives. His main assignment was to provide airlift for both United States and foreign dignitaries.

In 1970, he transferred to Altus Air Force Base, OK, where he served as Vice Commander of the 443rd Military Airlift Wing and later as base commander in 1973.

Retiring as a colonel from the Air Force in 1974, he immediately became the executive director of the ''Committee of 100,'' a special part of the Altus Chamber of Commerce. The main purpose of the committee was to strengthen and promote economic development of Altus and Jackson County, OK. After serving as the head of the organization from 1975 to 1984, Burley became the community's liaison between the men and women of Altus and the personnel assigned to Altus Air Force Base.

Burley's leadership brought about tremendous support for Altus AFB. Working with Air Force personnel and congressional Members, he was able to help secure needed funding and resources for the base. Some examples include new housing, runway easements, a parallel assault runway, a corrosion control facility and a drop zone. In 1982, a tornado struck Altus AFB and caused severe damage. Under Burley's leadership, critical funding was obtained to repair the damages. These projects helped Altus Air Force Base become rated as the best base in the Air Force a few years ago.

Burley has received numerous awards and citations through the years for his many achievements. Recently, Air Education Training Command singled Burley out for one of four, first time, ''Pioneer Awards'' to commemorate the 50th anniversary of the U.S. Air Force. He was also heavily involved with the Air Force Association, at the national and the State levels, as well as numerous civic and charitable organizations in Altus.

Burley Burleson, unfortunately, suffered a stroke in November of 2002 and is currently recovering. JIM INHOFE and I are proud to call him a friend and appreciate his dedicated service to our great country. His positive contributions to countless friends, all Oklahomans, and the U.S. Air Force are greatly appreciated.●

TRIBUTE TO MICHAEL SCHOPP

● Mr. TALENT. Mr. President, I rise today in the Senate to honor 15 year-old Michael Schopp, from Creve Coeur, MO. In a ceremony honoring his achievement on May 2, 2004, Mr. Schopp will receive the Eagle Scout Award, which is the highest advancement rank a young man may earn in scouting.

To earn his Eagle Award, Mr. Schopp designed, planned and supervised the construction and landscaping of a planter and two dugout benches for the Ballwin Athletic Association baseball fields where he played ball for several years.

Mr. Schopp began his scouting experience as a Cub Scout in elementary school and has been a member of Troop 631, sponsored by St. Mark Presbyterian Church in Ballwin, MO, since March 2000. Mr. Schopp's dedication to the values of scouting and his leadership ability are demonstrated in his many scouting activities over the years: he has served his boy scout troop as Patrol Leader and Assistant Patrol Leader, and is currently one of the leaders of his troop as a member of the Executive Patrol and as Assistant Senior Patrol Leader. Mr. Schopp participated in the Junior Leader Training Camp and also attended three Boy Scout High Adventure Camps: Northern Tier in Ely, MN; Sea Base in Florida; and OKPIK Winter Camp in Northern Minnesota.

The rank of Eagle Scout has always carried with it a special significance since it was first awarded in 1912 and its rigorous standards have been maintained over the years. That rigor is demonstrated in the fact that only 4 percent of young men across America who join the boy scouts earn this prestigious award. Mr. Schopp will be in good company as there are leaders in every walk of life who have endeavored to earn this coveted award. Indeed, many Eagle Scouts have gone on in life to excel in professional athletics, business, space exploration, entertainment, scientific discovery and public service in government. President Gerald Ford is an Eagle Scout as well as two of my distinguished colleagues in this chamber, Senator JEFF SESSIONS of Alabama and Senator RICHARD LUGAR of Indiana.

The people of Creve Coeur, MO are fortunate to have Mr. Schopp living and growing in their community. I congratulate Mr. Schopp for his success in earning his Eagle Scout Award. But also, I congratulate all of his peers, members of his troop, coaches, teachers, and parents for all the support and encouragement they have given that has helped Mr. Schopp reach his goals.

I know that all of my colleagues in the Senate will join me in offering congratulations to Mr. Schopp on a job well done and to extend best wishes for all of his future endeavors.●

HONORING LT. COL. MARC SUKOLSKY

● Mr. CRAPO. Mr. President, I rise to honor Lt. Col. Marc Sukolsky, a long time Idaho resident, upon his retirement from 24 years of service in the U.S. Air Force. Mark has served his country well, in peacetime and in war. Idaho is proud to be represented by such a dedicated soldier.

Marc Sukolsky received his master's degree in music pedagogy and then taught at Idaho State University. After 4 years of teaching, Marc began his extensive military leadership career in logistics in the Ninth Air Force and 363rd Fighter Wing. Exhibiting strong leadership early in his career, Marc was chosen as a senior logistics and resource inspector to develop future military base locations in Southwest Asia. In this position his inherent abilities as a negotiator and diplomat became well known. As his expertise grew, so did his influence. Mark's advice was solicited by the most senior officials including the Joint Chiefs of Staff.

In 1993, while stationed at the U.S. Embassy in the Netherlands, Marc played an important role in organizing logistical agreements between the U.S. and the Netherlands. This involved organizing troop and equipment movement both within the Netherlands and throughout Europe. As a military representative for the U.S. Secretary of State, Marc was also able to negotiate with foreign officials for permanent troop positions in Europe.

In the mid 1990's, he was called to assist NATO Allied Forces during the crisis in the Balkans. He drafted and implemented strategies for all logistical arrangements between the U.S. and Allied forces. In addition, he provided guidance and training for those nations seeking NATO membership.

His abilities to plan and execute defense, economic, and trade policy were tested and proven, when as a Commander he led the deployment of over 1.5 million pounds of equipment and 3,400 personnel to sensitive areas including the Persian Gulf. He managed to save the government over $19 million with new budgetary and finance programs. Leading the quality assurance of flying wing he recorded over 28,000 sorties and over 49,000 hours of flawless flying. In this position he was the principal advisor to the U.S. Ambassador of U.S. European Command on all armament matters. While serving in this capacity, he negotiated over $135 million in arms sales in 2002. He also contracted an $800 million aircraft development deal with the Netherlands.

In all of this, the role of his wife Ellen should not be understated. During 25 years of marriage, she has made tremendous sacrifices during Marc's time in the military. Together, they have spent 11 years overseas, relocated eleven times, and even spent 2 years apart during two 2-year separations.

I would like to honor Lt. Col. Marc Sukolsky and Ellen Sukolsky for their selfless service and sacrifice for their country. It is especially appropriate during this time of conflict to recognize a couple who have done so much for the freedom and stability of their country and the world. I wish both of them the best as they approach this new chapter of life together.●

LAURA JOSS

● Mr. SARBANES. Mr. President, I pay tribute today to Laura Joss, superintendent of Fort McHenry National Monument and Historic Shrine and Hampton National Historic Site, NHS. Laura has recently been appointed superintendent of Arches National Park in southern Utah and I wish her and her family the best of luck with this new assignment and thank her for the outstanding job she did in managing and enhancing Fort McHenry and Hampton NHS since coming to Maryland in 2000.

Over the past 4 years, I have had the opportunity and privilege to work closely with Laura Joss in efforts to protect and restore the historical resources of Fort McHenry and Hampton NHS and to develop a Star Spangled Banner National Historic Trail to help educate our citizens about a pivotal, but sadly neglected period in our Nation's history. In every instance, Laura proved herself to be a skillful and highly effective leader. Under her direction, Fort McHenry's seawalls and many historic structures have been restored, plans have been advanced to develop a new visitors center to accommodate the increasing number of visitors to the fort, many preservation projects have been undertaken at Hampton and a new general management plan for this historic site has been completed. Laura and her dedicated staff have frequently gone beyond the call of duty, offering to assist with the recovery efforts from the recent water taxi accident in Baltimore's Harbor and the September 11 attack on the World Trade Center and volunteering with the National Flag Day Foundation, Historic Towson Inc, and the Baltimore City Heritage Area, to name only a few examples.

Laura's dedication to the stewardship of the National Park System has earned her the respect of everyone with whom she has worked. During her 14-year career in the National Park Service, she has protected and improved some of our Nation's most precious natural and cultural treasures. Beginning as a volunteer at Mesa Verde National Park, she quickly advanced to serve in a number of national park units throughout the country, including Yellowstone National Park, Bryce Canyon National Park, and Glen Canyon National Recreation. Through her accomplishments she has set a high bar for all those to follow in her path, and the visitors to these national parks will benefit from her efforts for years to come. I greatly value the assistance Laura provided to me and my staff. I extend my personal congratulations and thanks for her many years of hard work and dedication to the principal conservation mission of the National Park Service and join with her friends and coworkers in wishing her, her husband Stuart Meehan, and her daughters Lindsay and Elizabeth, well with this new assignment and relocation.●

IN HONOR OF BRIGADIER GENERAL RICHARD L. URSONE

● Mr. DODD. Mr. President, I rise to pay tribute to an outstanding American soldier, BG Richard L. Ursone. General Ursone, a native of Stamford, CT, is retiring June 30, 2004 after 33 years of distinguished service in the United States Army Medical Service Corps.

General Ursone played a critical role in shaping and successfully executing the mission of the United States Army Medical Department. When brave men and women across our country commit to serving our country in the Armed Forces, our country also makes a commitment to them. And part of that commitment is to provide them with world-class medical care, both on and off the field of battle. Throughout his career, General Ursone has made invaluable contributions to the health and well-being of soldiers in the United States Army. Over the past three decades, General Ursone has served in a series of demanding assignments around the globe and in leadership positions of increasing responsibility.

Of particular note was General Ursone's service in combat during Operations Desert Shield and Desert Storm. From 1990 to 1991, General Ursone, then a Lieutenant Colonel, served as commander of the 47th Medical Logistics Battalion. He successfully deployed and led his soldiers in supporting the war effort and the entire U.S. Army Central Command Theater of Operations with the delivery and replenishment of needed medications and medical supplies.

From 1994 to 1996, then-Colonel Ursone served as the commander of the U.S. Army Medical Materiel Center, Europe in Pirmasens, Germany. Through his leadership, he reengineered the center's business practices to ensure that our soldiers stationed in Europe and their families received medical supplies and medications quickly and efficiently. His hard work and many accomplishments were recognized with the prestigious Vice President Gore's Hammer Award.

In 2000, he was promoted to brigadier general. As a general officer he served in multiple senior positions and was also appointed as the fourteenth chief of the Army Medical Service Corps.

As the commander of the Europe Regional Medical Command, General Ursone led a health care system comprised of a medical center, two hospitals, and 27 clinics. This medical command supported operations spanning over three continents—Europe, Africa and Asia—while simultaneously providing healthcare to over 250,000 soldiers, family members, retirees and civilians from the Department of Defense. In subsequent assignments as the Assistant Surgeon General for Force Sustainment and the Assistant Surgeon General for Force Projection from June 2002 to June 2004, General Ursone's leadership was integral in preparing the Army Medical Department to serve our troops in their efforts against the new and unfamiliar threat of global terrorism.

As chief of the Medical Service Corps, General Ursone has unified the most diverse group of specialties in the Army. His commitment to leader development and mentoring of junior officers helped the Corps achieve annual increases in recruiting and retaining officers. General Ursone's vision and leadership have created opportunities for officers to serve our Nation while also achieving their own professional and personal aspirations.

Health care in the Army encompasses a staggering array of services, from basic medical and dental checkups to prescription medications to emergency care on the battlefield to vaccinations against biological and chemical threats. Officers serve as medical operations officers, healthcare administrators, medical logisticians, preventive medicine officers, allied scientists, behavioral science officers as well as optometrists and pharmacists.

To lead and manage such a wide and complex network, you need to be a special person—one who is able to think strategically and act appropriately for the time and circumstances. You need a leader who will take swift and decisive action in a crisis, like when General Ursone worked around the clock managing the evacuation and care of the victims of the USS *Cole* bombing. You need a compassionate leader capable of implementing Women, Infant and Child programs. Above all, you need a leader who recognizes that his decisions will have a tremendous impact on thousands and thousands of individual soldiers and their families. In each and every one of these critical areas, Richard Ursone has gone above and beyond the call of duty.

Brigadier General Ursone's service and contributions to fellow soldiers and our Nation are eloquent testimony to his loyalty, dedication, talents, and abilities. General Ursone is not a physician. However, it is difficult to imagine any individual who has done more to ensure that every single soldier, family member and retiree in the U.S. Army receives the most advanced, efficient, and compassionate health care. His commitment to the men and women of our Armed Forces is truly an inspiration to us all. I send him my best wishes on his well-deserved retirement. And on behalf of our Nation, I extend to him thanks and gratitude for a remarkable career of service.●

REPORT PREPARED BY THE NATIONAL SCIENCE BOARD ENTITLED ''SCIENCE AND ENGINEERING INDICATORS—2004''—PM 75

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

Consistent with 42 U.S.C. 1863(j)(1), I transmit herewith a report prepared for the Congress and the Administration by the National Science Board entitled, ''Science and Engineering Indicators—2004.'' This report represents the sixteenth in the series examining key aspects of the status of science and engineering in the United States.

GEORGE W. BUSH.

THE WHITE HOUSE, *April 22, 2004.*

MESSAGE FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1779. An act to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes.

H.R. 3147. An act to designate the Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, as the ''James V. Hansen Federal Building''.

H.R. 3970. An act to provide for the implementation of a Green Chemistry research and Development Program, and for other purposes.

H.R. 4019. An act to address the participation of Taiwan in the World Health Organization.

H.R. 4030. An act to establish the Congressional Medal for Outstanding Contributions in Math and Science Education programs to recognize private entities for their outstanding contributions to elementary and secondary science, technology, engineering, and mathematics education.

At 5:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2844. An act to require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1779. An act to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes; to the Committee on Finance.

H.R. 3147. An act to designate the Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, as the ''James V. Hansen Federal Building''; to the Committee on Environment and Public Works.

H.R. 3970. An Act to provide for the implementation of a Green Chemistry Research and Development Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4019. An act to address the participation of Taiwan in the World health Organization; to the Committee on Foreign Relations.

H.R. 4030. An act to establish the Congressional Medal for Outstanding Contributions in Math and Science Education programs to recognize private entities for their outstanding contributions to elementary and secondary science, technology, engineering, and mathematics education; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3550. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2844. An act to require States to hold special elections to fill vacancies in the House of Representatives not later than 21 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7194. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Tolerance Exemptions for Certain Biopesticides'' (FRL7353–5) received on April 22, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7195. A communication from the Assistant Secretary of Defense, Reserve Affairs, transmitting, pursuant to law, the report on the National Guard Challenge Program dated March 2004; to the Committee on Armed Services.

EC–7196. A communication from the Acting General Counsel, Department of Defense, transmitting, the report of legislation entitled ''Support of Sensitive Military Operations to Combat Terrorism'' as part of the National Defense Authorization Bill for Fiscal Year 2005; to the Committee on Armed Services.

EC–7197. A communication from the Deputy Secretary, Division of Corporation Finance, Securities and Exchange Commission,

transmitting, pursuant to law, the report of a rule entitled ''Mandated Electronic Filing for Form ID'' (RIN3235–AJ09) received on April 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7198. A communication from the Director of the Office of Congressional Affairs, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Revision of Fee Schedules; Fee Recovery for FY 2004'' (RIN3150–AH37) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7199. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Early Action Compact Areas with Deferred Effective Dates'' (FRL7651–8) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7200. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona'' (FRL7651–1) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7201. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans, Finding of Attainment, and Designation of Areas for Air Quality Planning Purposes; 1-Hour Ozone Standard, East Kern County, California'' (FRL7641–7) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7202. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of RFP for Capacity Building Project in NIS'' received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7203. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment of the 1-Hour Ozone Standard; Determination Regarding Applicability of Certain Clean Air Act Requirements; Approval and Promulgation of Ozone Attainment Plan; San Francisco Bay Area, California'' (FRL7645–7) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7204. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion'' (FRL7651–4) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7205. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Action to Stay and Defer Sanctions Based on Attainment of the 1-Hour Ozone Standard for the San Francisco Bay Area, California'' (FRL7645–8) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7206. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Kern County Air Pollution Control District'' (FRL7640–7) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7207. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District'' (FRL7650–4) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7208. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL7651–3) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7209. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''South Dakota: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7653–2) received on April 22, 2004; to the Committee on Environment and Public Works.

EC–7210. A communication from the Assistant General Counsel for Regulatory Services, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Family Educational Rights and Privacy Act'' (RIN1855–AA00) received on April 22, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7211. A communication from the Assistant Secretary, Office of National Programs, Employment and Training Administration, transmitting, pursuant to law, the report of a rule entitled ''Senior Community Service Employment Program; Final Rule'' (RIN1205–AB28) received on April 22, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7212. A communication from the Acting Assistant Director, Civil Division, United States Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Claims Under the Radiation Exposure Compensation Act Amendments of 2000; Amendments Contained in the 21st Century Department of Justice Appropriations Authorization Act of 2002'' (RIN1105–AA75) received on April 22, 2004; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

From the Committee on the Judiciary, without amendment and with a preamble:

H. Con. Res. 328. Recognizing and honoring the United States Armed Forces and supporting the goals and objectives of a National Military Appreciation Month.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 310. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2270. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

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 Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2334. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System; to the Committee on Energy and Natural Resources.

By Mr. REED (for himself, Mr. KENNEDY, and Mr. BINGAMAN):

S. 2335. A bill to amend part A of title II of the Higher Education Act of 1965 to enhance teacher training and teacher preparation programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself, Mr. CHAFEE, Mrs. BOXER, Mrs. MURRAY, Mrs. CLINTON, Mr. CORZINE, and Mr. LAUTENBERG):

S. 2336. A bill to expand access to preventive health care services and education programs that help reduce unintended pregnancy, reduce infection with sexually transmitted disease, and reduce the number of abortions; to the Committee on Health, Education, Labor, and Pensions.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 2337. A bill to establish a grant program to support coastal and water quality restoration activities in States bordering the Great Lakes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND (for himself, Mr. KENNEDY, and Mr. JOHNSON):

S. 2338. A bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Ms. STABENOW, and Ms. MIKULSKI):

S. 2339. A bill to amend part D of title XVIII of the Social Security Act to improve the coordination of prescription drug coverage provided under retiree plans and State pharmaceutical assistance programs with the prescription drug benefit provided under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. KENNEDY, and Mr. REED):

S. 2340. A bill to reauthorize title II of the Higher Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Mr. DURBIN):

S. 2341. A bill to amend the Health Care Quality Improvement Act of 1986 to expand the National Practitioner Data Bank; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WARNER:

S. 2342. A bill to designate additional National Forest System lands in the State of Virginia as wilderness, to establish the Seng Mountain and Crawfish Valley Scenic Areas, to provide for the development of trail plans for the wilderness areas and scenic areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CONRAD (for himself and Mrs. LINCOLN):

S. 2343. A bill to amend title XVIII of the Social Security Act to improve the medicare program, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 2344. A bill to permit States to require insurance companies to disclose insurance information; to the Committee on the Judiciary.

By Mr. DODD:

S. 2345. A bill to improve the No Child Left Behind Act of 2001, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. INHOFE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

S. 684

At the request of Mr. SMITH, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 684, a bill to create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the United States Government regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

S. 1368

At the request of Mr. LEVIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1748

At the request of Mr. DEWINE, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1748, a bill to establish a program to award grants to improve and maintain sites honoring Presidents of the United States.

S. 1931

At the request of Mr. BUNNING, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1931, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 2020

At the request of Mrs. BOXER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2020, a bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2055

At the request of Mr. COLEMAN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2055, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 2238

At the request of Mr. BUNNING, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2238, a bill to amend the National Flood Insurance Act of 1968 to reduce loses to properties for which repetitive flood insurance claim payments have been made.

S. 2275

At the request of Ms. MIKULSKI, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2275, a bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes.

S. 2278

At the request of Mr. ENSIGN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2278, a bill to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 3 circuits, and for other purposes.

S. 2283

At the request of Mr. BAUCUS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2283, a bill to extend Federal funding for operation of State high risk health insurance pools.

At the request of Mr. GREGG, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 2283, supra.

S. 2321

At the request of Mr. BYRD, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Georgia (Mr. MILLER) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 2321, a bill to amend title 32, United States Code, to rename the National Guard Challenge Program and to increase the maximum Federal share of the costs of State programs under that program, and for other purposes.

S. 2328

At the request of Mr. DORGAN, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from New York (Mr. SCHUMER), the Senator from California (Mrs. FEINSTEIN) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 2328, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 2329

At the request of Mr. KYL, the names of the Senator from Oregon (Mr. SMITH), the Senator from Oregon (Mr. WYDEN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Maine (Ms. SNOWE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Oklahoma (Mr. NICKLES), the Senator from Oklahoma (Mr. INHOFE), the Senator from Mississippi (Mr. LOTT), the Senator from North Carolina (Mrs. DOLE), the Senator from Alabama (Mr. SHELBY) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 2329, a bill to protect crime victims' rights.

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. 2329, supra.

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2329, supra.

At the request of Mrs. LINCOLN, her name was added as a cosponsor of S. 2329, supra.

S.J. RES. 28

At the request of Mr. CAMPBELL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 90

At the request of Mr. LEVIN, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 313

At the request of Mr. FEINGOLD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 331

At the request of Mr. FITZGERALD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 331, a resolution designating June 2004 as ''National Safety Month''.

S. RES. 342

At the request of Mr. HATCH, the names of the Senator from Ohio (Mr. DEWINE), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. Res. 342, a resolution designating April 30, 2004, as ''Dia de los Ninos: Celebrating Young Americans'', and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2334. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System; to the Committee on Energy and Natural Resources.

Mrs. CLINTON. Mr. President, I rise to introduce the Caribbean National Forest Act of 2004, along with Senator SCHUMER.

The Caribbean National Forest Act designates approximately 10,000 acres of the Caribbean National Forest (CNF) as the El Toro Wilderness. The El Toro Wilderness would be the only tropical forest wilderness in the U.S. National Forest system.

The CNF has long been recognized as a special area, worthy of protection. The Spanish Crown proclaimed much of the current CNF as a forest reserve in 1824. One hundred years ago, President Theodore Roosevelt reasserted the protection of the CNF by designating the area as a forest reserve.

Located 25 miles east of San Juan, the CNF is a biologically diverse area. Although it is the smallest forest in the national forest system, the CNF ranks number one in the number of species of native trees with 240. In addition, the CNF has 50 varieties of orchids and over 150 species of ferns. The area is also rich in wildlife with over 100 species of vertebrates, including the endangered Puerto Rican parrot. The only native parrot in Puerto Rico, they numbered nearly one million at the time that Columbus set sail for the New World. Today there are fewer than 35 of these parrots. The Forest Service, the U.S. Fish and Wildlife Service and Puerto Rico's Department of Natural Resources and the Environment have initiated a recovery program for the Puerto Rican Parrot. Wilderness designation will ensure that the forest home to the parrot will remain protected and the ongoing recovery efforts, consistent with the Wilderness Act, will continue.

The CNF also provides valuable water to the people of Puerto Rico. The CNF receives over 10 feet of rain each year. As a result, the major watersheds in the CNF are able to provide water to over 800,000 residents. In addition, the CNF provides a variety of recreational opportunities to over 700,000 Puerto Ricans and tourists each year. Families, friends and school groups come to the forest to hike, bird watch, picnic, swim and enjoy the scenic vistas.

Wilderness designation of the El Toro will protect approximately one third of the forest. A companion House bill, H.R. 1723, has been introduced by Puerto Rico's Resident Commissioner, Abibel Acevedo Vila. During a House hearing on this measure last summer, the U.S. Forest Service stated its support for the designation of the El Toro Wilderness Area.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2334

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 ''Caribbean National Forest Act of 2004''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map dated April 13, 2004 and entitled ''El Toro Proposed Wilderness Area''.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1113 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico described in the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) DESIGNATION.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of the land described in the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) PUBLIC INSPECTION AND TREATMENT.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) ERRORS.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) SPECIAL MANAGEMENT CONSIDERATIONS.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

By Mr. REED (for himself, Mr. KENNEDY, and Mr. BINGAMAN):

S. 2335. A bill to amend part A of title II of the Higher Education Act of 1965 to enhance teacher training and teacher preparation programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce the Preparing, Recruiting, and Retaining Education Professionals Act of 2004 to ensure high quality preparation, induction, and professional development programs for teachers, early childhood education providers, principals and administrators in order to improve learning and achievement for all students.

As Congress turns to the reauthorization of the Higher Education Act, we need to increase support for prospective, new, and experienced educators in early childhood education programs, elementary schools, and secondary schools.

My legislation challenges teacher preparation programs to make improving student achievement the engine that drives all activities, training, and support for teachers. The goal here is not to be punitive but to put students and their achievement first.

We know that strong teaching skills make a difference. Studies have shown that students who attend classes taught by high-quality teachers perform significantly better on assessments. The No Child Left Behind Act requires that all teachers be highly qualified. To be so deemed, in general, a teacher must hold a bachelor's degree, be fully certified by a State, and demonstrate content knowledge of the subjects taught by the 2005–2006 school year. New teachers must meet this standard now. Yet, according to the U.S. Department of Education, only 54 percent of our Nation's secondary school teachers were highly qualified during the 1999–2000 school year. The percentage of highly qualified teachers varies widely by State and by subject matter. For example, a 2003 survey by the Council of Chief State School Officers found that only my home State of Rhode Island, Nebraska, New Jersey, North Dakota, and Minnesota have more than 80 percent of their math teachers with college majors in math and full certification. Seven States report having more than 10 percent of their teachers on waivers; that is, teaching with emergency, temporary, or provisional licenses.

The Preparing, Recruiting, and Retaining Education Professionals Act modifies and strengthens the current State, partnership, and recruitment grants contained within title II of the Higher Education Act to focus on improving teaching skills of prospective, new, and experienced teachers and early childhood education providers as well as improving the capacity of principals to provide instructional leadership and classroom support for teachers.

My legislation ensures States hold institutions of higher education and entities that provide alternative routes to State certification equally accountable for preparing highly qualified teachers and highly competent early childhood education providers via reforms to ensure preparation program effectiveness. The goal is to provide teachers and early childhood education providers the scientific knowledge of teaching skills needed to understand and respond effectively to diverse student populations, including students with disabilities, limited-English proficient students, and students with different learning styles or other special learning needs; the ability to integrate technology into the classroom; strategies to effectively use assessments to improve instructional practices and curriculum; and an understanding of how to communicate with and involve parents in their children's education.

The Higher Education Act's existing partnership grants are strengthened by improving the effectiveness of the teaching skills and learning practices taught through inclusion of academic departments such as psychology, human development, or one with comparable expertise in the disciplines of teaching, learning, and child and adolescent development. Partnerships are expanded to include pre-service clinical, field, or practicum components whereby the prospective teachers receive close supervision and mentoring. A residency program would be created to provide ongoing training support during new teachers' first 3 years. Professional development opportunities would have to be provided for experienced teachers to encourage continual retraining to further their skills. Managerial skill development is also included to improve the capacity of principals to provide instructional leadership and classroom support for teachers.

The time for action is now because too few of the teachers that we have prepared choose to enter the schools and stay. According to the National Commission on Teaching and America's Future, after 3 years, 33 percent of beginning teachers have left teaching and after 5 years, 46 percent have left. Not surprisingly, the turnover rate in high poverty schools is approximately one-third higher than the rate for all teachers. During the 1999–2000 school year, 232,000 new teachers were hired, but schools lost more than 287,000—a net loss of 24 percent. Teacher attrition undermines teacher quality and drives teacher shortages. Investing in the preparation of our educators and their continued professional development is critical for addressing these needs which, in turn, will improve outcomes and results for all children.

One of the primary reasons for such high attrition, according to the Commission, is the lack of support once a teacher is hired. Approximately one-third of those teachers who expressed dissatisfaction cited poor administrative support, a lack of faculty influence and inadequate planning and collaboration time. By providing mentoring and support during the pre-service experiences, the early years of teaching, and through ongoing professional development opportunities for experienced teachers, we can substantially reduce the terrible turnover rates that our Nation experiences.

There are also extensive teaching vacancies in schools nationwide. The General Accounting Office has found that 23 of 37 State officials reported teacher shortages in high-need subject areas such as mathematics, science, bilingual education and special education.

My legislation focuses recruitment activities where high teacher turnover and shortages exist, where there is great difficulty meeting academic standards, or where there is great difficulty demonstrating that teachers are highly qualified. The grants also allow funds for outreach to encourage recruitment in inner city and rural areas.

The State, partnership, and recruitment grants are currently funded at only $90 million a year—far too little of an investment for this critical enterprise. The stakes are too high, not just in terms of meeting the highly qualified requirements of No Child Left Behind, but for real kids in real classrooms. My bill significantly boosts this funding, authorizing $500 million for these vital programs.

The PRREP Act is supported by a diverse array of education organizations, including the American Association of Colleges for Teacher Education, American Psychological Association, Center for Civic Education, Council for Exceptional Children, Higher Education Consortium for Special Education, National Association of Elementary School Principals, National Association of Secondary School Principals, National Association of State Directors of Special Education, National Association for the Education of Young Children, National Council of Teachers of English, National Council of Teachers of Mathematics, National Science Teachers Association, and National PTA.

I urge my colleagues to join me in this essential endeavor by cosponsoring this legislation and working for its inclusion in the reauthorization of the Higher Education Act.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

Additionally, I am pleased to be joining Senator BINGAMAN, who is introducing the CLASS Act. This legislation shares the PRREP Act's spirit of improving teacher preparation and therefore, student achievement. In addition to encouraging the development of data systems to measure teacher quality, the CLASS Act authorizes pilot studies to evaluate the impact of teacher preparation programs on student achievement and to identify the specific practices that result in achievement gains. The legislation also seeks to improve minority teacher recruitment and retention.

The PRREP Act, Senator BINGAMAN's bill, and the bill we joined Senator KENNEDY in introducing last year—S. 1793, the College Quality, Affordability, and Diversity Improvement Act—will all go a long way toward ensuring the high quality preparation, induction, and professional development that our Nation's educators—and students—deserve.

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

S. 2335

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 ''Preparing, Recruiting, and Retaining Education Professionals Act of 2004''.

SEC. 2. PURPOSES; DEFINITIONS.

Section 201 of the Higher Education Act of 1965 (20 U.S.C. 1021) is amended to read as follows:

''SEC. 201. PURPOSES; DEFINITIONS.

''(a) PURPOSES.—The purposes of this part are to—

''(1) improve student achievement;

''(2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing ongoing professional development activities;

''(3) encourage partnerships among institutions of higher education, early childhood education programs, elementary schools or secondary schools, local educational agencies, State educational agencies, teacher organizations, and nonprofit educational organizations;

''(4) hold institutions of higher education and all other teacher preparation programs (including programs that provide alternative routes to teacher preparation) accountable in an equivalent manner for preparing—

''(A) teachers who have strong teaching skills, are highly qualified, and are trained in the effective uses of technology in the classroom; and

''(B) early childhood education providers who are highly competent;

''(5) recruit and retain qualified individuals, including individuals from other occupations, into the teaching force for early childhood education programs or in elementary schools or secondary schools;

''(6) improve the recruitment, retention, and capacities of principals to provide instructional leadership and to support teachers in maintaining safe and effective learning environments;

''(7) expand the use of research to improve teaching and learning by teachers, early childhood education providers, principals, and faculty; and

''(8) enhance the ability of teachers, early childhood education providers, principals, administrators, and faculty to communicate, work with, and involve parents in ways that improve student achievement.

''(b) DEFINITIONS.—In this part:

''(1) ARTS AND SCIENCES.—The term 'arts and sciences' means—

''(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers 1 or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

''(B) when referring to a specific academic subject matter area, the disciplines or content areas in which academic majors are offered by the arts and science organizational unit.

''(2) EARLY CHILDHOOD EDUCATION PROGRAM.—The term 'early childhood education program' means a family child care program, center-based child care program, prekindergarten program, school program, or other out-of-home child care program that is licensed or regulated by the State serving 2 or more unrelated children from birth until school entry, or a Head Start program carried out under the Head Start Act or an Early Head Start program carried out under section 645A of that Act.

''(3) EXEMPLARY TEACHER.—The term 'exemplary teacher' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(4) FACULTY.—

''(A) IN GENERAL.—The term 'faculty' means individuals in institutions of higher education who are responsible for preparing teachers.

''(B) INCLUSIONS.—The term 'faculty' includes professors of education and professors in academic disciplines such as the arts and sciences, psychology, and human development.

''(5) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency that serves an early childhood education program, elementary school, or secondary school located in an area in which—

''(A)(i) 15 percent or more of the students served by the agency are from families with incomes below the poverty line;

''(ii) there are more than 5,000 students served by the agency from families with incomes below the poverty line; or

''(iii) there are less than 600 students in average daily attendance in all the schools that are served by the agency and all of whose schools are designated with a school locale code of 7 or 8, as determined by the Secretary; and

''(B)(i) there is a high percentage of teachers who are not highly qualified; or

''(ii) there is a chronic shortage, or high turnover rate, of highly qualified teachers.

''(6) HIGH-NEED SCHOOL.—The term 'high-need school' means an early childhood education program, public elementary school, or public secondary school—

''(A)(i) in which there is a high concentration of students from families with incomes below the poverty line; or

''(ii) that, in the case of a public elementary school or public secondary school, is identified as in need of school improvement or corrective action pursuant to section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316); and

''(B) in which there exists—

''(i) in the case of a public elementary school or public secondary school, a persistent and chronic shortage, or high turnover rate, of highly qualified teachers; and

''(ii) in the case of an early childhood education program, a persistent and chronic shortage of early childhood education providers who are highly competent.

''(7) HIGHLY COMPETENT.—The term 'highly competent' when used with respect to an early childhood education provider means a provider—

''(A) with specialized education and training in development and education of young children from birth until entry into kindergarten;

''(B) with—

''(i) a baccalaureate degree in an academic major in the arts and sciences; or

''(ii) an associate's degree in a related educational area; and

''(C) who has demonstrated a high level of knowledge and use of content and pedagogy in the relevant areas associated with quality early childhood education.

''(8) HIGHLY QUALIFIED.—The term 'highly qualified' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(9) MENTORING.—The term 'mentoring' means a process by which a teacher mentor who is an exemplary teacher, either alone or in a team with faculty, provides active support for prospective teachers and new teachers through a system for integrating evidence-based practice, including rigorous, supervised training in high-quality teaching settings. Such support includes activities specifically designed to promote—

''(A) knowledge of the scientific research on, and assessment of, teaching and learning;

''(B) development of teaching skills and skills in evidence-based educational interventions;

''(C) development of classroom management skills;

''(D) a positive role model relationship where academic assistance and exposure to new experiences is provided; and

''(E) ongoing supervision and communication regarding the prospective teacher's development of teaching skills and continued support for the new teacher by the mentor, other teachers, principals, and administrators.

''(10) PARENT.—The term 'parent' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(11) PARENTAL INVOLVEMENT.—The term 'parental involvement' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(12) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

''(13) PROFESSIONAL DEVELOPMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'professional development' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(B) EARLY CHILDHOOD EDUCATION PROVIDERS.—The term 'professional development' when used with respect to an early childhood education provider means knowledge and skills in all domains of child development (including cognitive, social, emotional, physical, and approaches to learning) and pedagogy of children from birth until entry into kindergarten.

''(14) TEACHING SKILLS.—The term 'teaching skills' means skills—

''(A) grounded in the disciplines of teaching and learning that teachers use to create effective instruction in subject matter content and that lead to student achievement and the ability to apply knowledge; and

''(B) that require an understanding of the learning process itself, including an understanding of—

''(i) the use of teaching strategies specific to the subject matter;

''(ii) the application of ongoing assessment of student learning, particularly for evaluating instructional practices and curriculum;

''(iii) ensuring successful learning for students with individual differences in ability and instructional needs;

''(iv) effective classroom management; and

''(v) effective ways to communicate, work with, and involve parents in their children's education.''.

SEC. 3. STATE GRANTS.

Section 202 of the Higher Education Act of 1965 (20 U.S.C. 1022) is amended to read as follows:

''SEC. 202. STATE GRANTS.

''(a) IN GENERAL.—From amounts made available under section 211(1) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible States to enable the eligible States to carry out the activities described in subsection (d).

''(b) ELIGIBLE STATE.—

''(1) DEFINITION.—In this part, the term 'eligible State' means—

''(A) a State educational agency; or

''(B) an entity or agency in the State responsible for teacher certification and preparation activities.

''(2) CONSULTATION.—The eligible State shall consult with the Governor, State board of education, State educational agency, State agency for higher education, State agency with responsibility for child care, prekindergarten, or other early childhood education programs, and other State entities that provide professional development and teacher preparation for teachers, as appropriate, with respect to the activities assisted under this section.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

''(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible State shall, at the time of the initial grant application, submit an application to the Secretary that—

''(1) meets the requirement of this section and other relevant requirements for States under this title;

''(2) describes how the eligible State intends to use funds provided under this section in accordance with State-identified needs;

''(3) describes the eligible State's plan for continuing the activities carried out with the grant once Federal funding ceases;

''(4) describes how the eligible State will coordinate activities authorized under this section with other Federal, State, and local personnel preparation and professional development programs; and

''(5) contains such other information and assurances as the Secretary may require.

''(d) USES OF FUNDS.—An eligible State that receives a grant under this section shall use the grant funds to reform teacher preparation requirements, and to ensure that current and future teachers are highly qualified and possess strong teaching skills and knowledge to assess student academic achievement, by carrying out 1 or more of the following activities:

''(1) REFORMS.—Implementing reforms that hold institutions of higher education with teacher preparation programs accountable for, and assist such programs in, preparing teachers who are highly qualified or early childhood education providers who are highly competent. Such reforms shall include—

''(A) State program approval requirements regarding curriculum changes by teacher preparation programs that improve teaching skills based on scientific knowledge—

''(i) about the disciplines of teaching and learning; and

''(ii) about understanding and responding effectively to students with special needs;

''(B) State program approval requirements for teacher preparation programs to have in place mechanisms to measure and assess the

effectiveness and impact of teacher preparation programs, including on student achievement;

''(C) assurances from institutions that such institutions have a program in place that provides a year-long clinical experience for prospective teachers; and

''(D) collecting and using data, in collaboration with institutions of higher education, schools, and local educational agencies, on teacher retention rates, by school, to evaluate and strengthen the effectiveness of the State's teacher support system.

''(2) CERTIFICATION OR LICENSURE REQUIREMENTS.—Ensuring the State's teacher certification or licensure requirements are rigorous so that teachers have strong teaching skills and are highly qualified.

''(3) ALTERNATIVE ROUTES TO STATE CERTIFICATION.—Carrying out programs that provide prospective teachers with high-quality alternative routes to traditional preparation for teaching and to State certification for well-prepared and qualified prospective teachers, including—

''(A) programs at schools or departments of arts and sciences, schools or departments of education within institutions of higher education, or at nonprofit educational organizations with expertise in producing highly qualified teachers that include instruction in teaching skills;

''(B) a selective means for admitting individuals into such programs;

''(C) providing intensive support during the initial teaching experience, including mentoring;

''(D) establishing, expanding, or improving alternative routes to State certification of teachers for qualified individuals, including mid-career professionals from other occupations, paraprofessionals, former military personnel and recent college graduates with records of academic distinction, that have a proven record of effectiveness and that ensure that current and future teachers possess strong teaching skills and are highly qualified; and

''(E) providing support in the disciplines of teaching and learning to ensure that prospective teachers have an understanding of evidence-based learning practices and possess strong teaching skills.

''(4) STATE CERTIFICATION RECIPROCITY.—Establishing and promoting reciprocity of certification or licensing between or among States for general and special education teachers and principals, except that no reciprocity agreement developed pursuant to this paragraph or developed using funds provided under this part may lead to the weakening of any State certification or licensing requirement that is shown through evidence-based research to ensure teacher and principal quality and student achievement.

''(5) RECRUITMENT AND RETENTION.—Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to effectively recruit and retain highly qualified teachers, highly competent early childhood education providers, and principals, and provide access to ongoing professional development opportunities for teachers, early childhood education providers, and principals, including activities described in subsections (d) and (e) of section 204.

''(6) SOCIAL PROMOTION.—Development and implementation of efforts to address the problem of social promotion and to prepare teachers, principals, administrators, and parents to effectively address the issues raised by ending the practice of social promotion.''.

SEC. 4. PARTNERSHIP GRANTS.

Section 203 of the Higher Education Act of 1965 (20 U.S.C. 1023) is amended to read as follows:

''SEC. 203. PARTNERSHIP GRANTS.

''(a) GRANTS.—From amounts made available under section 211(2) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible partnerships to enable the eligible partnerships to carry out the activities described in subsections (d) and (e).

''(b) DEFINITIONS.—

''(1) ELIGIBLE PARTNERSHIP.—In this part, the term 'eligible partnership' means an entity that—

''(A) shall include—

''(i) a partner institution;

''(ii) a school or department of arts and sciences within the partner institution under clause (i);

''(iii) a school or department of education within the partner institution under clause (i);

''(iv)(I) a department of psychology within the partner institution under clause (i);

''(II) a department of human development within the partner institution under clause (i); or

''(III) a department with comparable expertise in the disciplines of teaching, learning, and child and adolescent development within the partner institution under clause (i);

''(v) a high-need local educational agency; and

''(vi)(I) a high-need school served by the high-need local educational agency under clause (v); or

''(II) a consortium of schools of the high-need local educational agency under clause (v); and

''(B) may include a Governor, State educational agency, the State board of education, the State agency for higher education, an institution of higher education not described in subparagraph (A) (including a community college), a public charter school, other public elementary school or secondary school, a combination or network of urban, suburban, or rural schools, a public or private nonprofit educational organization, a business, a teacher organization, or an early childhood education program.

''(2) PARTNER INSTITUTION.—In this section, the term 'partner institution' means a private independent or State-supported public institution of higher education, or a consortium of such institutions, that has not been designated under section 208(a) and the teacher preparation program of which demonstrates that—

''(A) graduates from the teacher preparation program who intend to enter the field of teaching exhibit strong performance on State-determined qualifying assessments and are highly qualified; or

''(B) the teacher preparation program requires all the students of the program to participate in intensive clinical experience, to meet high academic standards, to possess strong teaching skills, and—

''(i) in the case of prospective elementary school and secondary school teachers, to become highly qualified; and

''(ii) in the case of prospective early childhood education providers, to become highly competent.

''(c) APPLICATION.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

''(1) contain a needs assessment of all the partners with respect to the preparation, ongoing training, and professional development of early childhood education providers, general and special education teachers, and principals, the extent to which the program prepares new teachers with strong teaching skills, a description of how the partnership will coordinate strategies and activities with other teacher preparation or professional development programs, and how the activities of the partnership will be consistent with State, local, and other education reform activities that promote student achievement and parental involvement;

''(2) contain a resource assessment that describes the resources available to the partnership, including the integration of funds from other related sources, the intended use of the grant funds, including a description of how the grant funds will be fairly distributed in accordance with subsection (f), and the commitment of the resources of the partnership to the activities assisted under this part, including financial support, faculty participation, time commitments, and continuation of the activities when the grant ends;

''(3) contain a description of—

''(A) how the partnership will meet the purposes of this part, in accordance with the needs assessment required under paragraph (1);

''(B) how the partnership will carry out the activities required under subsection (d) and any permissible activities under subsection (e) based on the needs identified in paragraph (1) with the goal of improving student achievement;

''(C) the partnership's evaluation plan pursuant to section 206(b);

''(D) how faculty at the partner institution will work with, over the term of the grant, principals and teachers in the classrooms of the high-need local educational agency included in the partnership;

''(E) how the partnership will enhance the instructional leadership and management skills of principals and provide effective support for principals, including new principals;

''(F) how the partnership will design, implement, or enhance a year-long, rigorous, and enriching preservice clinical program component;

''(G) the in-service professional development strategies and activities to be supported; and

''(H) how the partnership will collect, analyze, and use data on the retention of all teachers, early childhood education providers, or principals in schools located in the geographic areas served by the partnership to evaluate the effectiveness of its educator support system;

''(4) contain a certification from the partnership that it has reviewed the application and determined that the grant proposed will comply with subsection (f);

''(5) include, for the residency program described in subsection (d)(3)—

''(A) a demonstration that the schools and departments within the institution of higher education that are part of the residency program have relevant and essential roles in the effective preparation of teachers, including content expertise and expertise in the science of teaching and learning;

''(B) a demonstration of capability and commitment to evidence-based teaching and accessibility to, and involvement of, faculty documented by professional development offered to staff and documented experience with university collaborations;

''(C) a description of how the residency program will design and implement an induction period to support all new teachers through the first 3 years of teaching in the further development of their teaching skills, including use of mentors who are trained and compensated by such program for their work with new teachers; and

''(D) a description of how faculty involved in the residency program will be able to substantially participate in an early childhood education program or an elementary or secondary classroom setting, including release

time and receiving workload credit for their participation; and

''(6) include an assurance that the partnership has mechanisms in place to measure and assess the effectiveness and impact of the activities to be undertaken, including on student achievement.

''(d) REQUIRED USES OF FUNDS.—An eligible partnership that receives a grant under this section shall use the grant funds to carry out the following activities, as applicable to teachers, early childhood education providers, or principals, in accordance with the needs assessment required under subsection (c)(1):

''(1) REFORMS.—Implementing reforms within teacher preparation programs, where needed, to hold the programs accountable for preparing teachers who are highly qualified or early childhood education providers who are highly competent and for promoting strong teaching skills, including integrating reliable evidence-based teaching methods into the curriculum, which curriculum shall include parental involvement training and programs designed to successfully integrate technology into teaching and learning. Such reforms shall include—

''(A) teacher preparation program curriculum changes that improve, and assess how well all new teachers develop, teaching skills;

''(B) use of scientific knowledge about the disciplines of teaching and learning so that all prospective teachers understand evidence-based learning practices and possess teaching skills that enable them to meet the learning needs of all students;

''(C) assurances that all teachers have a sufficient base of scientific knowledge to understand and respond effectively to students with special needs, such as providing instruction to diverse student populations, including students with disabilities, limited-English proficient students, and students with different learning styles or other special learning needs;

''(D) assurances that the most recent scientifically based research, including research relevant to particular fields of teaching, is incorporated into professional development activities used by faculty; and

''(E) working with and involving parents in their children's education to improve the academic achievement of their children and in the teacher preparation program reform process.

''(2) CLINICAL EXPERIENCE AND INTERACTION.—Developing and providing sustained and high-quality preservice clinical education programs to further develop the teaching skills of all general education teachers and special education teachers, at schools within the partnership, at the school or department of education within the partner institution, or at evidence-based practice school settings. Such programs shall—

''(A) incorporate a year-long, rigorous, and enriching activity or combination of activities, including—

''(i) clinical learning opportunities;

''(ii) field experiences; and

''(iii) supervised practica; and

''(B) be offered over the course of a program of preparation and coursework (that may be developed as a 5th year of a teacher preparation program) for prospective general and special education teachers, including the mentoring in instructional skills, classroom management skills, and strategies to effectively assess student progress and achievement, and substantially increasing closely supervised interaction between faculty and new and experienced teachers, principals, and other administrators at early childhood education programs, elementary schools, or secondary schools, and providing support, including preparation time and release time, for such interaction.

''(3) RESIDENCY PROGRAMS FOR NEW TEACHERS.—Creating a residency program that provides an induction period for all new general education and special education teachers for such teachers' first 3 years. Such program shall promote the integration of the science of teaching and learning in the classroom, provide high-quality mentoring opportunities, provide opportunities for the dissemination of evidence-based research on educational practices, and provide for opportunities to engage in professional development activities offered through professional associations of educators. Such program shall draw directly upon the expertise of teacher mentors, faculty, and researchers that involves their active support in providing a setting for integrating evidence-based practice for prospective teachers, including rigorous, supervised training in high-quality teaching settings that promotes the following:

''(A) Knowledge of the scientific research on teaching and learning.

''(B) Development of skills in evidence-based educational interventions.

''(C) Faculty who model the integration of research and practice in the classroom, and the effective use and integration of technology.

''(D) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers on the learning process and the assessment of learning.

''(E) A forum for information sharing among prospective teachers, teachers, principals, administrators, and participating faculty in the partner institution.

''(F) Application of scientifically based research on teaching and learning generated by entities such as the Institute of Education Sciences and by the National Research Council.

''(4) PROFESSIONAL DEVELOPMENT.—Creating opportunities for enhanced and ongoing professional development for experienced general education and special education teachers, early childhood education providers, principals, administrators, and faculty that—

''(A) improves the academic content knowledge, as well as knowledge to assess student academic achievement and how to use the results of such assessments to improve instruction, of teachers in the subject matter or academic content areas in which the teachers are certified to teach or in which the teachers are working toward certification to teach;

''(B) promotes strong teaching skills and an understanding of how to apply scientific knowledge about teaching and learning to their teaching practice and to their ongoing classroom assessment of students;

''(C) provides mentoring, team teaching, reduced class schedules, and intensive professional development;

''(D) encourages and supports training of teachers, principals, and administrators to effectively use and integrate technology—

''(i) into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability;

''(ii) to enhance learning by children, including students with disabilities, limited-English proficient students, and students with different learning styles or other special learning needs; and

''(iii) to effectively communicate, work with, and involve parents in their children's education;

''(E) creates an ongoing retraining loop for experienced teachers, principals, and administrators, whereby the residency program activities and practices—

''(i) inform the research of faculty and other researchers; and

''(ii) translate evidence-based research findings into improved practice techniques and improved teacher preparation programs; and

''(F) includes the rotation, for varying periods of time, of experienced teachers—

''(i) who are associated with the partnership to early childhood education programs, elementary schools, or secondary schools not associated with the partnership in order to enable such experienced teachers to act as a resource for all teachers in the local educational agency or State; and

''(ii) who are not associated with the partnership to early childhood education programs, elementary schools, or secondary schools associated with the partnership in order to enable such experienced teachers to observe how teaching and professional development occurs in the partnership.

''(5) SUPPORT FOR PARTICIPANTS.—Providing support for those individuals participating in the required activities under paragraphs (1) through (4) who serve as role models or mentors for prospective, new, and experienced teachers, based on such individuals' experience. Such support—

''(A) also may be provided to the preservice clinical experience participants, as appropriate; and

''(B) may include—

''(i) release time for such individual's participation;

''(ii) receiving course workload credit and compensation for time teaching in the partnership activities; and

''(iii) stipends.

''(6) LEADERSHIP AND MANAGERIAL SKILLS.—

''(A) IN GENERAL.—Developing and implementing proven mechanisms to provide principals, superintendents, early childhood education program directors, and administrators (and mentor teachers, as practicable) with—

''(i) an understanding of the skills and behaviors that contribute to effective instructional leadership and the maintenance of a safe and effective learning environment;

''(ii) teaching and assessment skills needed to support successful classroom teaching;

''(iii) an understanding of how students learn and develop in order to increase achievement for all students; and

''(iv) the skills to effectively involve parents.

''(B) MECHANISMS.—The mechanisms developed and implemented pursuant to subparagraph (A) may include any of the following:

''(i) Mentoring of new principals.

''(ii) Field-based experiences, supervised practica, or internship opportunities.

''(iii) Other activities to expand the knowledge base and practical skills of principals, superintendents, early childhood education program directors, and administrators (and mentor teachers, as practicable).

''(e) ALLOWABLE USES OF FUNDS.—An eligible partnership that receives a grant under this section may use such funds to carry out the following activities:

''(1) DISSEMINATION AND COORDINATION.—Broadly disseminating information on effective practices used by the partnership, including teaching strategies and interactive materials for developing skills in classroom management and assessment and how to respond to individual student needs, abilities, and backgrounds, to early childhood education providers and teachers in elementary schools or secondary schools that are not associated with the partnership. Coordinating with the activities of the Governor, State board of education, State higher education

agency, and State educational agency, as appropriate.

''(2) CURRICULUM PREPARATION.—Supporting preparation time for early childhood education providers, teachers in elementary schools or secondary schools, and faculty to jointly design and implement teacher preparation curricula, classroom experiences, and ongoing professional development opportunities that promote the acquisition and continued growth of teaching skills.

''(3) COMMUNICATION SKILLS.—Developing strategies and curriculum-based professional development activities to enhance prospective teachers' communication skills with students, parents, colleagues, and other education professionals.

''(4) COORDINATION WITH OTHER INSTITUTIONS OF HIGHER EDUCATION.—Coordinating with other institutions of higher education, including community colleges, to implement teacher preparation programs that support prospective teachers in obtaining baccalaureate degrees and State certification or licensure.

''(5) TEACHER RECRUITMENT.—Activities described in subsections (d) and (e) of section 204.

''(f) SPECIAL RULE.—No individual member of an eligible partnership shall retain more than 50 percent of the funds made available to the partnership under this section.

''(g) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of more than 1 Governor, State board of education, State educational agency, local educational agency, or State agency for higher education.''.

SEC. 5. RECRUITMENT GRANTS.

Section 204 of the Higher Education Act of 1965 (20 U.S.C. 1024) is amended to read as follows:

''SEC. 204. RECRUITMENT GRANTS.

''(a) PROGRAM AUTHORIZED.—From amounts made available under section 211(3) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible applicants to enable the eligible applicants to carry out activities described in subsections (d) and (e).

''(b) ELIGIBLE APPLICANT DEFINED.—In this part, the term 'eligible applicant' means—

''(1) an eligible State described in section 202(b) that has—

''(A) high teacher shortages or turnover rates; or

''(B) high teacher shortages or turnover rates in high-need local educational agencies; or

''(2) an eligible partnership described in section 203(b) that—

''(A) serves not less than 1 high-need local educational agency with high teacher shortages or turnover rates ;

''(B) serves schools that demonstrate great difficulty meeting State challenging academic content standards; or

''(C) demonstrates great difficulty meeting the requirement that teachers be highly qualified.

''(c) APPLICATION.—Any eligible applicant desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require, including—

''(1) a description of the assessment that the eligible applicant, and the other entities with whom the eligible applicant will carry out the grant activities, have undertaken to determine the most critical needs of the participating high-need local educational agencies;

''(2) a description of how the eligible applicant will recruit and retain highly qualified teachers or other qualified individuals, including principals and early childhood education providers, or both, who are enrolled in, accepted to, or plan to participate in teacher preparation programs or professional development activities, as described under section 203, in geographic areas of greatest need, including data on the retention rate, by school, of all teachers in schools located within the geographic areas served by the eligible applicant;

''(3) a description of the activities the eligible applicant will carry out with the grant; and

''(4) a description of the eligible applicant's plan for continuing the activities carried out with the grant once Federal funding ceases.

''(d) REQUIRED USES OF FUNDS.—An eligible applicant receiving a grant under this section shall use the grant funds—

''(1)(A) to award scholarships to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program;

''(B) to provide support services, if needed, to enable scholarship recipients to complete postsecondary education programs;

''(C) for followup services (including mentoring and professional development activities) provided to former scholarship recipients during the recipients first 3 years of teaching; and

''(D) in the case where the eligible applicant also receives a grant under section 203, for support for mentor teachers who participate in the residency program; or

''(2) to develop and implement effective mechanisms, including a professional development system and career ladders, to ensure that high-need local educational agencies, high-need schools, and early childhood education programs are able to effectively recruit and retain highly competent early childhood education providers, highly qualified teachers, and principals.

''(e) ALLOWABLE USE OF FUNDS.—An eligible applicant receiving a grant under this section may use the grant funds to carry out the following:

''(1) OUTREACH.—Conducting outreach and coordinating with inner city and rural secondary schools to encourage students to pursue teaching as a career.

''(2) EARLY CHILDHOOD EDUCATION COMPENSATION.—For eligible applicants focusing on early childhood education, implementing initiatives that increase compensation of early childhood education providers who attain degrees in early childhood education.

''(f) SERVICE REQUIREMENTS.—The Secretary shall establish such requirements as the Secretary finds necessary to ensure that recipients of scholarships under this section who complete teacher education programs subsequently teach in a high-need local educational agency, for a period of time equivalent to the period for which the recipients receive scholarship assistance, or repay the amount of the scholarship. The Secretary shall use any such repayments to carry out additional activities under this section.''.

SEC. 6. ADMINISTRATIVE PROVISIONS.

Section 205 of the Higher Education Act of 1965 (20 U.S.C. 1025) is amended—

(1) in subsection (a)—

(A) in the heading, by striking ''ONE-TIME AWARDS;'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2);

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4);

(B) by striking paragraph (2) and inserting the following:

''(2) COMPOSITION OF PANEL.—The peer review panel shall be composed of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications for grants under this part. A majority of the panel shall be composed of individuals who are not employees of the Federal Government.'';

(C) by inserting after paragraph (2) the following:

''(3) EVALUATION AND PRIORITY.—The peer review panel shall evaluate the applicants' proposals to improve the current and future teaching force through program and certification reforms, teacher preparation program activities (including implementation and assessment strategies), and professional development activities described in sections 202, 203, and 204, as appropriate. In recommending applications to the Secretary for funding under this part, the peer review panel shall—

''(A) with respect to grants under section 202, give priority to eligible States that—

''(i) have initiatives to reform State program approval requirements for teacher preparation programs that are designed to ensure that current and future teachers are highly qualified and possess strong teaching skills, knowledge to assess student academic achievement, and the ability to use this information in such teachers' classroom instruction;

''(ii) include innovative reforms to hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly qualified and have strong teaching skills; or

''(iii) involve the development of innovative efforts aimed at reducing the shortage of—

''(I) highly qualified teachers in high-poverty urban and rural areas; and

''(II) highly qualified teachers in fields with persistently high teacher shortages, such as special education;

''(B) with respect to grants under section 203—

''(i) give priority to applications from eligible partnerships that involve broad participation within the community, including businesses; and

''(ii) take into consideration—

''(I) providing an equitable geographic distribution of the grants throughout the United States; and

''(II) the potential of the proposed activities for creating improvement and positive change; and

''(C) with respect to grants under section 204, give priority to eligible applicants that have in place, or in progress, articulation agreements between 2- and 4-year public and private institutions of higher education and nonprofit providers of professional development with demonstrated experience in professional development activities.''; and

(D) by adding at the end the following:

''(5) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this part to pay the expenses and fees of peer review panel members who are not employees of the Federal Government.''; and

(c) by striking subsection (e) and inserting the following:

''(e) TECHNICAL ASSISTANCE.—For each fiscal year, the Secretary may expend not more than $500,000 or 0.75 percent of the funds appropriated to carry out this title for such fiscal year, whichever amount is greater, to provide technical assistance to States and partnerships receiving grants under this part.''.

SEC. 7. ACCOUNTABILITY AND EVALUATION.

Section 206 of the Higher Education Act of 1965 (20 U.S.C. 1026) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''Committee on Labor and

Human Resources'' and inserting ''Committee on Health, Education, Labor, and Pensions'';

(B) in paragraph (2), by striking '', including,'' and all that follows through the period and inserting ''as a highly qualified teacher.'';

(C) in paragraph (3)—

(i) by striking ''highly''; and

(ii) by striking the period at the end and inserting ''that meet the same standards and criteria of State certification or licensure programs.'';

(D) by striking paragraph (4) and inserting the following:

''(4) TEACHER AND PROVIDER QUALIFICATIONS.—

''(A) ELEMENTARY AND SECONDARY SCHOOL CLASSES.—Increasing the percentage of elementary school and secondary school classes taught by teachers—

''(i) who are highly qualified;

''(ii) who have completed preparation programs that provide such teachers with the scientific knowledge about the disciplines of teaching, learning, and child and adolescent development so the teachers understand and use evidence-based teaching skills to meet the learning needs of all students; or

''(iii) who have completed a residency program throughout their first 3 years of teaching that includes mentoring by faculty who are trained and compensated for their work with new teachers.

''(B) EARLY CHILDHOOD EDUCATION PROGRAMS.—Increasing the percentage of classrooms in early childhood education programs taught by providers who are highly competent.'';

(E) by striking paragraph (5) and inserting the following:

''(5) DECREASING SHORTAGES.—Decreasing shortages of—

''(A) qualified teachers and principals in poor urban and rural areas; and

''(B) qualified teachers in fields with persistently high teacher shortages, such as special education.''; and

(F) by striking paragraph (6) and inserting the following:

''(6) INCREASING OPPORTUNITIES FOR PROFESSIONAL DEVELOPMENT.—Increasing opportunities for enhanced and ongoing professional development that—

''(A) improves—

''(i) the knowledge and skills of early childhood education providers;

''(ii) the knowledge of teachers in special education;

''(iii) the knowledge and skills to assess student academic achievement and use the results of such assessments to improve instruction; or

''(iv) the knowledge of subject matter or academic content areas—

''(I) in which the teachers are certified or licensed to teach; or

''(II) in which the teachers are working toward certification or licensure to teach;

''(B) promotes strong teaching skills and an understanding of how to apply scientific knowledge about teaching and learning to teachers' teaching practice and to teachers' ongoing classroom assessment of students; and

''(C) provides enhanced instructional leadership and management skills for principals.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''for'' and inserting ''for teachers, early childhood education providers, or principals, as appropriate, according to the needs analysis required under section 203(c)(1), for''; and

(B) by striking paragraphs (1) through (6) and inserting the following:

''(1) increased demonstration by program graduates of teaching skills grounded in scientific knowledge about the disciplines of teaching and learning;

''(2) increased student achievement for all students as measured by the partnership, including mechanisms to measure student achievement due to the specific activities conducted by the partnership;

''(3) increased teacher retention in the first 3 years of a teacher's career based, in part, on teacher retention data collected as described in section 203(c)(3)(H);

''(4) increased success in the pass rate for initial State certification or licensure of teachers;

''(5) increased percentage of elementary school and secondary school classes taught by teachers who are highly qualified;

''(6) increased percentage of early childhood education program classes taught by providers who are highly competent;

''(7) increased percentage of early childhood education programs and elementary school and secondary school classes taught by providers and teachers who demonstrate clinical judgment, communication, and problem-solving skills resulting from participation in a residency program;

''(8) increased percentage of qualified special education teachers;

''(9) increased number of general education teachers trained in working with students with disabilities, limited-English proficient students, and students with different learning styles or other special learning needs;

''(10) increased number of teachers trained in technology; and

''(11) increased number of teachers, early childhood education providers, or principals prepared to work effectively with parents.''; and

(3) in subsection (d)—

(A) by inserting '', with particular attention to the reports and evaluations provided by the eligible States and eligible partnerships pursuant to this section,'' after ''funded under this part''; and

(B) by striking ''Committee on Labor and Human Resources'' and inserting ''Committee on Health, Education, Labor, and Pensions''.

SEC. 8. ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.

Section 207 of the Higher Education Act of 1965 (20 U.S.C. 1027) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) through (f) as subsections (a) through (e), respectively;

(3) in subsection (a), as redesignated by paragraph (2)—

(A) in the matter preceding paragraph (1), by striking '', within 2 years'' and all that follows through ''the following'' and inserting '', on an annual basis and in a uniform and comprehensible manner that conforms with the definitions and reporting methods previously developed for teacher preparation programs by the Commissioner of the National Center for Education Statistics, a State report card on the quality of teacher preparation in the State, which shall include not less than the following'';

(B) in paragraph (4)—

(i) by striking ''teaching candidates'' and inserting ''prospective teachers''; and

(ii) by striking ''candidate'' and inserting ''prospective teacher'';

(C) in paragraph (5)—

(i) by striking ''teaching candidates'' and inserting ''prospective teachers'';

(ii) by striking ''teacher candidate'' and inserting ''prospective teacher''; and

(iii) by striking ''candidate's'' and inserting ''teacher's'';

(D) in paragraph (7), by inserting ''how the State has ensured that the alternative certification routes meet the same State standards and criteria for teacher certification or licensure,'' after ''if any,'';

(E) in paragraph (8)—

(i) by striking ''teacher candidate'' and inserting ''prospective teacher''; and

(ii) by inserting ''(including the ability to provide instruction to diverse student populations, including students with disabilities, limited-English proficient students, and students with different learning styles or other special learning needs)'' after ''skills'';

(F) by adding at the end the following:

''(10) Information on the extent to which teachers or prospective teachers in each State are prepared to work in partnership with parents and involve parents in their children's education.'';

(4) in subsection (b)(1), as redesignated by paragraph (2)—

(A) by striking ''not later than 6 months of the date of enactment of the Higher Education Amendments of 1998 and'';

(B) by striking ''subsection (b)'' and inserting ''subsection (a)'';

(C) by striking ''Committee on Labor and Human Resources'' and inserting ''Committee on Health, Education, Labor, and Pensions''; and

(D) by striking ''not later than 9 months after the date of enactment of the Higher Education Amendments of 1998'';

(5) in subsection (c)(1), as redesignated by paragraph (2)—

(A) by striking ''(9) of subsection (b)'' and inserting ''(10) of subsection (a)''; and

(B) by striking ''and made available not later than 2 years 6 months after the date of enactment of the Higher Education Amendments of 1998 and annually thereafter'' and inserting '', and made available annually''; and

(6) in subsection (e)(1), as redesignated by paragraph (2)—

(A) by striking ''not later than 18 months after the date of enactment of the Higher Education Amendments of 1998 and annually thereafter, shall report'' and inserting ''shall report annually''; and

(B) by striking ''methods established under subsection (a)'' and inserting ''reporting methods developed for teacher preparation programs''.

SEC. 9. STATE FUNCTIONS.

Section 208 of the Higher Education Act of 1965 (20 U.S.C. 1028) is amended—

(1) in subsection (a)—

(A) by striking '', not later than 2 years after the date of enactment of the Higher Education Amendments of 1998,'';

(B) by inserting ''and within entities providing alternative routes to teacher preparation'' after ''institutions of higher education'';

(C) by inserting ''and entities'' after ''low-performing institutions'';

(D) by inserting ''and entities'' after ''those institutions''; and

(E) by striking ''207(b)'' and inserting ''207(a)'';

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following:

''(b) TEACHER QUALITY PLAN.—In order to receive funds under this Act, a State shall submit a State teacher quality plan that—

''(1) details how such funds will ensure that all teachers are highly qualified; and

''(2) indicates whether each teacher preparation program in the State that has not been designated as low-performing under subsection (a) is of sufficient quality to meet all State standards and produce highly qualified teachers with the teaching skills needed to teach effectively in the schools of the State.'';

(4) in subsection (c), as redesignated by paragraph (2)—

(A) in paragraph (1), by striking ''of Education''; and

(B) in paragraph (2), by striking ''of this Act''; and

(5) in subsection (d), as redesignated by paragraph (2), by striking ''subsection (b)(2)'' and inserting ''subsection (c)(2)''.

SEC. 10. ACADEMIES FOR FACULTY EXCELLENCE.

Part A of title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended—

(1) by redesignating section 210 as section 211; and

(2) by inserting after section 209 the following:

''SEC. 210. ACADEMIES FOR FACULTY EXCELLENCE.

''(a) PROGRAM AUTHORIZED.—From amounts made available under subsection (e), the Secretary is authorized to award grants to eligible entities to enable such entities to create Academies for Faculty Excellence.

''(b) ELIGIBLE ENTITY.—In this section:

''(1) IN GENERAL.—The term 'eligible entity' means a consortium composed of institutions of higher education that—

''(A) award doctoral degrees in education; and

''(B) are partner institutions (as such term is defined in section 203).

''(2) INCLUSIONS.—The term 'eligible entity' may include the following:

''(A) Institutions of higher education that—

''(i) do not award doctoral degrees in education; and

''(ii) are partner institutions (as such term is defined in section 203).

''(B) Nonprofit entities with expertise in preparing highly qualified teachers.

''(c) APPLICATION.—An eligible entity desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a description of how the eligible entity will provide professional development that is grounded in scientifically based research to faculty;

''(2) evidence that the eligible entity is well versed in current scientifically based research related to teaching and learning across content areas and fields;

''(3) a description of the assessment that the eligible entity will undertake to determine the most critical needs of the faculty who will be served by the Academies for Faculty Excellence; and

''(4) a description of the activities the eligible entity will carry out with grant funds received under this section, how the entity will include faculty in the activities, and how the entity will conduct these activities in collaboration with programs and projects that receive Federal funds from the Institute of Education Sciences.

''(d) REQUIRED USE OF FUNDS.—Each eligible entity that receives a grant under this section shall use the grant funds to enhance the caliber of teaching undertaken in preparation programs for teachers, early childhood education providers, and principals and other administrators through the establishment and maintenance of a postdoctoral system of professional development by carrying out the following:

''(1) RECRUITMENT.—Recruit a faculty of experts who are knowledgeable about scientifically based research related to teaching and learning, who have direct experience working with teachers and students in school settings, who are capable of implementing scientifically based research to improve teaching practice and student achievement in school settings, and who are capable of providing professional development to faculty and others responsible for preparing teachers, early childhood education providers, principals, and administrators.

''(2) PROFESSIONAL DEVELOPMENT CURRICULA.—Develop a series of professional development curricula to be used by the Academies for Faculty Excellence and disseminated broadly to teacher preparation programs nationwide.

''(3) PROFESSIONAL DEVELOPMENT EXPERIENCES.—Support the development of a range of ongoing professional development experiences (including the use of the Internet) for faculty to ensure that such faculty are knowledgeable about effective evidence-based practice in teaching and learning. Such experiences shall promote joint faculty activities that link content and pedagogy.

''(4) DEVELOPMENT PROGRAMS.—Provide fellowships, scholarships, and stipends for teacher educators to participate in various faculty development programs offered by the Academies for Faculty Excellence.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2005 and such sums as may be necessary for each of the 5 succeeding fiscal years.''.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

Section 211 of the Higher Education Act of 1965, as redesignated by section 10, is amended—

(1) by striking ''part $300,000,000 for fiscal year 1999'' and inserting ''part, other than section 210, $500,000,000 for fiscal year 2005'';

(2) by striking ''4 succeeding'' and inserting ''5 succeeding'';

(3) in paragraph (1), by striking ''45'' and inserting ''20'';

(4) in paragraph (2), by striking ''45'' and inserting ''60''; and

(5) in paragraph (3), by striking ''10'' and inserting ''20''.

By Mr. REID (for himself, Mr. CHAFEE, Mrs. BOXER, Mrs. MURRAY, Mrs. CLINTON, Mr. CORZINE, and Mr. LAUTENBERG):

S. 2336. A bill to expand access to preventive health care services and education programs that help reduce unintended pregnancy, reduce infection with sexually transmitted disease, and reduce the number of abortions; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, I introduce a bill on behalf of myself, Mr. CHAFEE, Mrs. BOXER, Mrs. MURRAY, Mrs. CLINTON, Mr. CORZINE, and Mr. LAUTENBERG.

We are very fortunate to live in a democratic nation where we can express our opinions freely. That is what America is all about. We can attempt to influence the policies of our Government and even criticize them without fear of retaliation. We can debate important issues without fear of retaliation by anyone.

One of the most heated debates in the last two decades has been the issue of abortion. People on both sides of the issue feel extremely strong. They have argued, demonstrated, and protested with much emotion and passion. The issue is not going to go away soon. I doubt that one side will be able to suddenly convince the other to drop its deeply held beliefs.

However, there is a need and even an opportunity to find common ground. We can move toward a goal we all share, reducing the number of unintended pregnancies in America. It is possible. And it is necessary to come together and enact effective legislation to prevent unintended pregnancies, reduce the number of abortions performed in this country, and address the unmet health care needs of American women.

We can only find common ground by being honest with each other. We can find not only common ground but also common sense solutions in this legislation which I am introducing entitled ''Putting Prevention First.'' I am pleased that Senators CHAFEE, BOXER, MURRAY, CORZINE and LAUTENBERG are joining me as cosponsors of this legislation.

The Putting Prevention First Act will help reduce the staggering rates of unintended pregnancies in America. It will reduce the rate of infection with sexually transmitted diseases, reduce the number of abortions, and improve access to health care for women.

Specifically, the Putting Prevention First Act will: No. 1, end insurance discrimination against women; No. 2, improve awareness and understanding of emergency contraception; No. 3, ensure that rape victims have information about emergency contraception and access to emergency contraception; No. 4, increase funding for the National Family Planning Program; No. 5, provide funding to allow States to implement a comprehensive approach to sexuality education that includes information about both abstinence and contraception; No. 6, expands teen pregnancy prevention programs; and, No. 7 allows States to expand Medicaid family planning services to low-income women without having to apply for a waiver from the Federal Government.

Nationwide, about one-half of all pregnancies are unintended and half of those end in abortion. This is not just a health problem; it is a public health tragedy. But it does not have to be this way. Most of the unintended pregnancies and resulting abortions can be prevented. We must work together to make that happen, we can find a common ground.

One of the most important steps we can take to prevent unintended pregnancies is ensuring that American women have access to affordable, effective contraception.

I have been on national radio call-in shows and talked about legislation I have worked on with Senator SNOWE for so many years to provide for contraceptive equity. One time, a woman called and said: I don't believe in contraception. Well, my simple answer to her was: Then don't use them. But don't prevent others who have different beliefs from having the ability to use these contraceptives.

Today, numerous forms of safe and highly effective contraception are

available by prescription. If used correctly, they could greatly reduce the rate of unintended pregnancies.

One of the greatest obstacles to the use of prescription contraceptives by American women is their cost. Women are educated. They know that they work. They simply do not have the money.

Again, on a radio program, a woman called in and said: I have diabetes. I am pregnant. I didn't want to become pregnant. It is not good for me. She said: But my husband's insurance doesn't cover the pill.

It is amazing, but many insurance policies do not cover prescription contraceptives for women. But they do automatically cover tubal ligations, vasectomies, abortions, and other such things that are much more expensive than prescription contraception.

Now, we have made progress. Federal Employees have access to prescription contraception through the Federal Employees Health Benefits Program. But we shouldn't limit this benefit to just federal employees.

We know that women on average earn less than men, and yet they must pay far more than men for health-related expenses. According to the Women's Research and Education Institute, women of reproductive age pay 68 percent more in out-of-pocket costs for medical expenses than men, and, of course, that is largely due to their reproductive health care needs.

Because many women cannot afford the prescription contraceptives they would like to use, many go without. Far too often, this results in unintended pregnancies.

The high cost of prescription contraceptives is not just a problem for the millions of women without health insurance, but also for millions of American women who do have health insurance because many insurance plans that cover prescription drugs do not cover contraceptives. So women are forced to either do without contraceptives or pay for them out of pocket and, as I have given an example or two, many families simply cannot afford it. This is unfair to women and their families and it is a bad policy because it causes additional unintended pregnancies and adversely affects the health of women.

Since 1997, Senator OLYMPIA SNOWE and I have worked to remedy this problem. Today, as part of the Putting Prevention First Act, I am again proposing common-sense legislation that has received bipartisan support.

The Equity in Prescription Insurance and Contraceptive Coverage Act—EPICC, as we call it—requires insurance plans that cover prescription drugs to provide the same coverage for prescription contraceptives. We are not asking for special treatment, only equitable treatment within the context of an existing prescription drug benefit. This legislation is simply the fair thing to do for women.

And making contraception more affordable and more available will enable more women to use safe and effective means to prevent unintended pregnancies. As I said, it is a goal we all share.

Contraceptive coverage is much cheaper than other services, including, as I have said, abortions, sterilizations, and tubal ligations that insurance companies routinely cover. The Federal Employee Health Benefits Program, which has provided contraceptive coverage for several years because of an amendment offered on this floor, has proved that adding such coverage does not increase the cost of a plan.

This commonsense, cost-effective legislation is long overdue. Promoting equity in health insurance coverage for American women, while working to prevent unintended pregnancies and improve the health of women, is by any means the right thing to do.

We should also take additional steps that would improve access to women's health care for poor and low-income women. Public health programs such as Medicaid and title X provide high-quality family planning services and other preventive health care to underinsured or uninsured individuals. Yet these programs are struggling to meet the growing demand for subsidized family planning services without corresponding increases in funding.

The Putting Prevention First legislation would increase the authorization for title X, and it would allow States to expand Medicaid family planning services to women with incomes of up to 200 percent of the Federal poverty level without having to apply to the Federal Government for a waiver.

This commonsense approach has long been championed by Senator LINCOLN Chafee. My friend and cosponsor of this legislation knows that contraceptive use saves scarce public health dollars. Every $1 spent on providing family planning services saves an estimated $3 in expenditures for pregnancy-related and newborn care for Medicaid alone.

The Putting Prevention First Act would increase the awareness and availability of emergency contraception, an important yet poorly understood form of contraception. Approved for use by the Food and Drug Administration, emergency contraception pills work to prevent pregnancy, and they cannot disrupt or interrupt an established pregnancy. The emergency contraception pills work to prevent pregnancy, not to interrupt and disrupt a pregnancy. The availability of emergency contraception is very important for women who survive a sexual assault.

I can remember a young woman who worked for me, a teenager. She came to me and said: Could I see you in your office?

I said: Sure. What is the matter?

She said: I was jumped.

She was driving through a part of town alone. Some people pulled her car over and they raped her. I sent her to another friend of mine who is an OB/GYN.

It is difficult to imagine the physical, psychological, and emotional pain endured by a woman who is raped. In addition to the violent attack, she must also worry about the possibility she could become pregnant.

The availability of emergency contraception is important for women who survive a sexual assault. A woman could use emergency contraception in an emergency, such as if she has been raped and doesn't want to become pregnant.

Compassion is a word we have heard a lot from political leaders in recent years. Actions speak louder than words. Surely it would be compassionate to make emergency contraception available to a woman who is raped so she doesn't become impregnated by the thug who brutalized and traumatized her.

The Putting Prevention First Act includes a provision that has been advocated by Senators Corzine and Murray. This provision would require hospitals receiving Federal health dollars to provide information about emergency contraception and make it available to sexual assault survivors who are treated in the emergency room. Simply put, emergency contraception should be made available in an emergency room.

Emergency contraception and emergency rooms go hand in hand. Women who are the victims of rape should be informed of all their options, including emergency contraception.

If they choose that option, it should be available to them right then.

Emergency contraception has been studied extensively and is regarded as a safe and effective method to prevent unintended pregnancies. Its use has been recommended by leading medical authorities, including the American Medical Association and the American College of Obstetricians and Gynecologists. It has been approved by the Food and Drug Administration. An FDA advisory panel has recommended emergency contraception be made available without a prescription. This could prevent 1.7 million unintended pregnancies and 800,000 abortions in America each year.

Unfortunately, however, emergency contraception remains for the most part a well-kept secret. Most of the women who would use this to prevent an unintended pregnancy are unaware of its existence, and they don't know it is available, if it is available. Even many health care providers do not understand what emergency contraception is, how it works, and who can use it.

To reduce unintended pregnancies by raising awareness about emergency contraception, the Putting Prevention First Act includes a provision championed by Senator MURRAY that will provide funding to develop and distribute information about emergency contraception to public health organizations, health care providers, and the public. I commend Senator MURRAY and appreciate her allowing me to include this in my legislation.

These are some of the simple but necessary steps we can and should take to prevent unintended pregnancies. We should embrace these measures to protect the health of American women, prevent unintended pregnancies, and reduce abortion. It is time to put prevention first.

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. 2336

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 ''Putting Prevention First Act''.

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

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Although the Centers for Disease Control and Prevention (''CDC'') included family planning in its published list of the ''Ten Great Public Health Achievements in the 20th Century'', the United States still has one of the highest rates of unintended pregnancies among industrialized nations.

(2) Each year, three million pregnancies, nearly half of all pregnancies, in the United States are unintended; and half of unintended pregnancies end in abortion.

(3) In 2000, 34 million women—half of all women of reproductive age (ages 15–44)—were in need of contraceptive services and supplies to help prevent unintended pregnancy, and half of those were in need of public support for such care.

(4) The United States also has the highest rate of infection with sexually transmitted diseases (''STDs'') of any industrialized country: in 2000 there were approximately 18.9 million new cases of STDs.

(5) Increasing access to family planning services will improve women's health and reduce the rates of unintended pregnancy, abortion, and infection with STDs. Contraceptive use saves public health dollars: every dollar spent on providing family planning services, saves an estimated $3 in expenditures for pregnancy-related and newborn care for Medicaid alone.

(6) Contraception is basic health care that improves the health of women and children by enabling women to plan and space births.

(7) Women experiencing unintended pregnancy are at greater risks for physical abuse and women having closely spaced births are at greater risk of maternal death.

(8) The child born from an unintended pregnancy is at greater risk of low birth weight, dying in the first year of life, being abused, and not receiving sufficient resources for healthy development.

(9) The ability to control fertility also allows couples to achieve economic stability by facilitating greater educational achievement and participation in the workforce.

(10) The average American woman desires two children and spends five years of her life pregnant or trying to get pregnant and roughly 30 years trying to prevent pregnancy; without contraception, a sexually active woman has an 85 percent chance of becoming pregnant within a year.

(11) Many poor and low-income women cannot afford to purchase contraceptive services and supplies on their own. 12.1 million or 20 percent of all women aged 15–24 were uninsured in 2002, and that proportion has increased by 10 percent since 1999.

(12) Public health programs like Medicaid and Title X, the national family planning program, provide high-quality family planning services and other preventive health care to underinsured or uninsured individuals who may otherwise lack access to health care.

(13) Medicaid is the single largest source of public funding for family planning services and HIV/AIDS care in the United States. Half of all public dollars spent on contraceptive services and supplies in the United States are provided through Medicaid and approximately 5.5 million women of reproductive age—nearly one in ten women between the ages of 15 and 44—rely on Medicaid for their basic health care needs.

(14) Each year, Title X services enable Americans to prevent approximately one million unintended pregnancies, and one in three women of reproductive age who obtains testing or treatment for STDs does so at a Title X-funded clinic. In 2002, Title X-funded clinics provided three million Pap tests, 5.2 million STD tests, and 494,000 HIV tests.

(15) The increasing number of uninsured, stagnant funding, health care inflation, new and expensive contraceptive technologies, and improved but expensive screening and treatment for cervical cancer and STDs, have diminished the ability of Title X funded clinics to adequately serve all those in need. Taking inflation into account, funding for the Title X program declined 57 percent between 1980 and 2003.

(16) While Medicaid is the largest source of subsidized family planning services, many States have had to make significant cuts in their Medicaid programs due to budget pressures putting many women at risk of losing coverage for family planning services.

(17) In addition, eligibility for Medicaid in many States is severely restricted leaving family planning services financially out of reach for many poor women. Many States have demonstrated tremendous success with Medicaid family planning waivers that allow them to expand access to Medicaid family planning services. However, the administrative burden of applying for a waiver poses a significant barrier to States that would like to expand their Medicaid family planning programs.

(18) Many private health plans still do not cover contraceptive services and supplies. The lack of contraceptive coverage in health insurance plans places many effective forms of contraception beyond the financial reach of many women.

(19) Including contraceptive coverage in private health care plans saves employers money: not covering contraceptives in employee health plans costs employers 15 to 17 percent more than providing such coverage.

(20) Emergency contraception is a safe and effective way to prevent unintended pregnancy after unprotected sex. It is estimated that the use of emergency contraception could cut the number of unintended pregnancies in half, thereby reducing the need for abortion.

(21) In 2000, 51,000 abortions were prevented by use of emergency contraception; increased use of emergency contraception accounted for up to 43 percent of the total decline in abortions between 1994 and 2000.

(22) Access to comprehensive sex education is critical to reducing rates of unintended pregnancy, abortion, and STD infection among teens. Over 60 percent of teens have had sex before they graduate from high school and nine out of ten people have sex before they get married. 822,000 teenagers become pregnant each year; 35 percent of teen girls become pregnant at least once before turning 20; and 78 percent of teenage pregnancies are unintended. Nearly half (48 percent) of new STD cases are among people ages 15–24, even though these youth make up only a quarter of the sexually active population.

(23) The American Medical Association, the American Nurses Association, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Public Health Association, and the Society for Adolescent Medicine, support responsible sexuality education that includes information about both abstinence and contraception.

(24) Comprehensive sex education protects adolescent health. A recent survey found that only 15 percent of American parents believe that schools should just teach about abstinence.

(25) A recent study showed that teens who took pledges to remain virgins until marriage were just as likely to contract STDs as teens who did not take virginity pledges and that although teens taking the pledges delayed sexual debut, they were less likely to use condoms once they were sexually active.

(26) Teens who receive sex education that includes discussion of contraception are more likely than those who receive abstinence-only messages to delay sex and to have fewer partners and use contraceptives when they do become sexually active.

TITLE I—TITLE X OF PUBLIC HEALTH SERVICE ACT

SEC. 101. SHORT TITLE.

This Act may be cited as the ''Title X Family Planning Services Act of 2004''.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants and contracts under section 1001 of the Public Health Service Act, there are authorized to be appropriated $643,000,000 for fiscal year 2005, and such sums as may be necessary for each subsequent fiscal year.

TITLE II—FAMILY PLANNING STATE EMPOWERMENT

SEC. 201. SHORT TITLE.

This Act may be cited as the ''Family Planning State Empowerment Act''.

SEC. 202. STATE OPTION TO PROVIDE FAMILY PLANNING SERVICES AND SUPPLIES TO ADDITIONAL LOW-INCOME INDIVIDUALS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1935 as section 1936; and

(2) by inserting after section 1934 the following:

''STATE OPTION TO PROVIDE FAMILY PLANNING SERVICES AND SUPPLIES TO ADDITIONAL LOW-INCOME INDIVIDUALS

''SEC. 1935.

''(a) IN GENERAL.—A State may elect (through a State plan amendment) to make medical assistance described in section 1905(a)(4)(C) available to any individual not otherwise eligible for such assistance—

''(1) whose family income does not exceed an income level (specified by the State) that does not exceed the greatest of—

''(A) 200 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved;

''(B) in the case of a State that has in effect (as of the date of the enactment of this section) a waiver under section 1115 to provide such medical assistance to individuals based on their income level (expressed as a percent of the poverty line), the eligibility income level as provided under such waiver; or

''(C) the eligibility income level (expressed as a percent of such poverty line) that has been specified under the plan (including under section 1902(r)(2)), for eligibility of pregnant women for medical assistance; and

''(2) at the option of the State, whose resources do not exceed a resource level specified by the State, which level is not more restrictive than the resource level applicable under the waiver described in paragraph (1)(B) or to pregnant women under paragraph (1)(C).

''(b) FLEXIBILITY.—A State may exercise the authority under subsection (a) with respect to one or more classes of individuals described in such subsection.''.

(b) CONFORMING AMENDMENT.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter before paragraph (1)—

(1) by striking ''and'' at the end of clause (xii);

(2) by adding ''and'' at the end of clause (xiii); and

(3) by inserting after clause (xiii) the following new clause:

''(xiv) individuals described in section 1935, but only with respect to items and services described in paragraph (4)(C),''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance provided on and after October 1, 2004.

SEC. 203. STATE OPTION TO EXTEND THE PERIOD OF ELIGIBILITY FOR PROVISION OF FAMILY PLANNING SERVICES AND SUPPLIES.

(a) IN GENERAL.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

''(13) At the option of a State, the State plan may provide that, in the case of an individual who was eligible for medical assistance described in section 1905(a)(4)(C), but who no longer qualifies for such assistance because of an increase in income or resources or because of the expiration of a post-partum period, the individual may remain eligible for such assistance for such period as the State may specify, but the period of extended eligibility under this paragraph shall not exceed a continuous period of 24 months for any individual. The State may apply the previous sentence to one or more classes of individuals and may vary the period of extended eligibility with respect to different classes of individuals.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 2004.

TITLE III—EQUITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE

SEC. 301. SHORT TITLE.

This Act may be cited as the ''Equity in Prescription Insurance and Contraceptive Coverage Act''.

SEC. 302. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug shall be consistent with those imposed for other outpatient prescription drugs otherwise covered under the plan or coverage;

''(ii) benefits for contraceptive devices under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device shall be consistent with those imposed for other outpatient prescription devices otherwise covered under the plan or coverage; and

''(iii) benefits for outpatient contraceptive services under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service shall be consistent with those imposed for other outpatient health care services otherwise covered under the plan or coverage;

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services; or

''(C) as modifying, diminishing, or limiting the rights or protections of an individual under any other Federal law.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan, except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State

law establishes, implements, or continues in effect any standard or requirement that provides coverage or protections for participants or beneficiaries that are greater than the coverage or protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy. ''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

''Sec. 714. Standards relating to benefits for contraceptives.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2005.

SEC. 303. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug shall be consistent with those imposed for other outpatient prescription drugs otherwise covered under the plan or coverage;

''(ii) benefits for contraceptive devices under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device shall be consistent with those imposed for other outpatient prescription devices otherwise covered under the plan or coverage; and

''(iii) benefits for outpatient contraceptive services under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service shall be consistent with those imposed for other outpatient health care services otherwise covered under the plan or coverage;

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services; or

''(C) as modifying, diminishing, or limiting the rights or protections of an individual under any other Federal law.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides coverage or protections for enrollees that are greater than the coverage or protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 2005.

SEC. 304. AMENDMENT TO PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

''SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2005.

TITLE IV—EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION

SEC. 401. SHORT TITLE.

This Act may be cited as the ''Emergency Contraception Education Act''.

SEC. 402. EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION PROGRAMS.

(a) DEFINITIONS.—For purposes of this section:

(1) EMERGENCY CONTRACEPTION.—The term ''emergency contraception'' means a drug or device (as the terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) or a drug regimen that is—

(A) used after sexual relations; and

(B) prevents pregnancy, by preventing ovulation, fertilization of an egg, or implantation of an egg in a uterus.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' means an individual who is licensed or certified under State law to provide health care services and who is operating within the scope of such license.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

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

(b) EMERGENCY CONTRACEPTION PUBLIC EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop and disseminate to the public information on emergency contraception.

(2) DISSEMINATION.—The Secretary may disseminate information under paragraph (1) directly or through arrangements with nonprofit organizations, consumer groups, institutions of higher education, Federal, State, or local agencies, clinics and the media.

(3) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum, a description of emergency contraception, and an explanation of the use, safety, efficacy, and availability of such contraception.

(c) EMERGENCY CONTRACEPTION INFORMATION PROGRAM FOR HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with major medical and public health organizations, shall develop and disseminate to health care providers information on emergency contraception.

(2) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum—

(A) information describing the use, safety, efficacy and availability of emergency contraception;

(B) a recommendation regarding the use of such contraception in appropriate cases; and

(C) information explaining how to obtain copies of the information developed under subsection (b), for distribution to the patients of the providers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 2005 through 2009.

TITLE V—COMPASSIONATE ASSISTANCE FOR RAPE EMERGENCIES

SEC. 501. SHORT TITLE.

This Act may be cited as the ''Compassionate Assistance for Rape Emergencies Act''.

SEC. 502. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) IN GENERAL.—Federal funds may not be provided to a hospital under any health-related program, unless the hospital meets the conditions specified in subsection (b) in the case of—

(1) any woman who presents at the hospital and states that she is a victim of sexual assault, or is accompanied by someone who states she is a victim of sexual assault; and

(2) any woman who presents at the hospital whom hospital personnel have reason to believe is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS.—The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

(1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that—

(A) emergency contraception does not cause an abortion; and

(B) emergency contraception is effective in most cases in preventing pregnancy after unprotected sex.

(2) The hospital promptly offers emergency contraception to the woman, and promptly provides such contraception to her on her request.

(3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

(4) The services described in paragraphs (1) through (3) are not denied because of the inability of the woman or her family to pay for the services.

(c) DEFINITIONS.—For purposes of this section:

(1) The term ''emergency contraception'' means a drug, drug regimen, or device that is—

(A) used postcoitally;

(B) prevents pregnancy by delaying ovulation, preventing fertilization of an egg, or preventing implantation of an egg in a uterus; and

(C) is approved by the Food and Drug Administration.

(2) The term ''hospital'' has the meanings given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title.

(3) The term ''Secretary'' means the Secretary of Health and Human Services.

(4) The term ''sexual assault'' means coitus in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA.—This section takes effect upon the expiration of the 180-day period beginning on the date of enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

TITLE VI—FAMILY LIFE EDUCATION

SEC. 601. SHORT TITLE.

This Act may be cited as the ''Family Life Education Act''.

SEC. 602. FINDINGS.

The Congress finds as follows:

(1) The American Medical Association (''AMA''), the American Nurses Association (''ANA''), the American Academy of Pediatrics (''AAP''), the American College of Obstetricians and Gynecologists (''ACOG''), the American Public Health Association (''APHA''), and the Society of Adolescent Medicine (''SAM''), support responsible sexuality education that includes information about both abstinence and contraception.

(2) Recent scientific reports by the Institute of Medicine, the American Medical Association and the Office on National AIDS Policy stress the need for sexuality education that includes messages about abstinence and provides young people with information about contraception for the prevention of teen pregnancy, HIV/AIDS and other sexually transmitted diseases (''STDs'').

(3) Research shows that teenagers who receive sexuality education that includes discussion of contraception are more likely than those who receive abstinence-only messages to delay sexual activity and to use contraceptives when they do become sexually active.

(4) Comprehensive sexuality education programs respect the diversity of values and beliefs represented in the community and will complement and augment the sexuality education children receive from their families.

(5) The median age of puberty is 13 years and the average age of marriage is over 26 years old. American teens need access to full, complete, and medically and factually accurate information regarding sexuality, including contraception, STD/HIV prevention, and abstinence.

(6) Although teen pregnancy rates are decreasing, there are still between 750,000 and 850,000 teen pregnancies each year. Between 75 and 90 percent of teen pregnancies among 15- to 19-year olds are unintended.

(7) Research shows that 75 percent of the decrease in teen pregnancy between 1988 and 1995 was due to improved contraceptive use, while 25 percent was due to increased abstinence.

(8) More than eight out of ten Americans believe that young people should have information about abstinence and protecting themselves from unplanned pregnancies and sexually transmitted diseases.

(9) United States teens acquire an estimated 4,000,000 sexually transmitted infections each year. By age 24, at least one in three sexually active people will have contracted a sexually transmitted disease.

(10) An average of two young people in the United States are infected with HIV every hour of every day. African Americans and Hispanic youth have been disproportionately affected by the HIV/AIDS epidemic. Although less than 16 percent of the adolescent population in the United States is African American, nearly 50 percent of AIDS cases through June 2000 among 13- to 19-year olds were among Blacks. Hispanics comprise 13 percent of the population and 20 percent of the reported adolescent AIDS cases though June 2000.

SEC. 603. ASSISTANCE TO REDUCE TEEN PREGNANCY, HIV/AIDS, AND OTHER SEXUALLY TRANSMITTED DISEASES AND TO SUPPORT HEALTHY ADOLESCENT DEVELOPMENT.

(a) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary of Health and Human Services, for each of the fiscal years 2005 through 2009, a grant to conduct programs of family life education, including education on both abstinence and contraception for the prevention of teenage pregnancy and sexually transmitted diseases, including HIV/AIDS.

(b) REQUIREMENTS FOR FAMILY LIFE PROGRAMS.—For purposes of this title, a program of family life education is a program that—

(1) is age-appropriate and medically accurate;

(2) does not teach or promote religion;

(3) teaches that abstinence is the only sure way to avoid pregnancy or sexually transmitted diseases;

(4) stresses the value of abstinence while not ignoring those young people who have had or are having sexual intercourse;

(5) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy;

(6) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to reduce the risk of contracting sexually transmitted diseases, including HIV/AIDS;

(7) encourages family communication about sexuality between parent and child;

(8) teaches young people the skills to make responsible decisions about sexuality, including how to avoid unwanted verbal, physical, and sexual advances and how not to make unwanted verbal, physical, and sexual advances; and

(9) teaches young people how alcohol and drug use can effect responsible decisionmaking.

(c) ADDITIONAL ACTIVITIES.—In carrying out a program of family life education, a State may expend a grant under subsection (a) to carry out educational and motivational activities that help young people—

(1) gain knowledge about the physical, emotional, biological, and hormonal changes of adolescence and subsequent stages of human maturation;

(2) develop the knowledge and skills necessary to ensure and protect their sexual and reproductive health from unintended pregnancy and sexually transmitted disease, including HIV/AIDS throughout their lifespan;

(3) gain knowledge about the specific involvement of and male responsibility in sexual decisionmaking;

(4) develop healthy attitudes and values about adolescent growth and development, body image, gender roles, racial and ethnic diversity, sexual orientation, and other subjects;

(5) develop and practice healthy life skills including goal-setting, decisionmaking, negotiation, communication, and stress management;

(6) promote self-esteem and positive interpersonal skills focusing on relationship dynamics, including, but not limited to, friendships, dating, romantic involvement, marriage and family interactions; and

(7) prepare for the adult world by focusing on educational and career success, including developing skills for employment preparation, job seeking, independent living, financial self-sufficiency, and workplace productivity.

SEC. 604. SENSE OF CONGRESS.

It is the sense of Congress that while States are not required to provide matching funds, they are encouraged to do so.

SEC. 605. EVALUATION OF PROGRAMS.

(a) IN GENERAL.—For the purpose of evaluating the effectiveness of programs of family life education carried out with a grant under section 603, evaluations of such program shall be carried out in accordance with subsections (b) and (c).

(b) NATIONAL EVALUATION.—

(1) IN GENERAL.—The Secretary shall provide for a national evaluation of a representative sample of programs of family life education carried out with grants under section 603. A condition for the receipt of such a grant is that the State involved agree to cooperate with the evaluation. The purposes of the national evaluation shall be the determination of—

(A) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(B) the effectiveness of such programs in preventing adolescent pregnancy;

(C) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS;

(D) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs; and

(E) a list of best practices based upon essential programmatic components of evaluated programs that have led to success in subparagraphs (A) through (D).

(2) REPORT.—A report providing the results of the national evaluation under paragraph (1) shall be submitted to the Congress not later than March 31, 2008, with an interim report provided on a yearly basis at the end of each fiscal year.

(c) INDIVIDUAL STATE EVALUATIONS.—

(1) IN GENERAL.—A condition for the receipt of a grant under section 603 is that the State involved agree to provide for the evaluation of the programs of family education carried out with the grant in accordance with the following:

(A) The evaluation will be conducted by an external, independent entity.

(B) The purposes of the evaluation will be the determination of—

(i) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(ii) the effectiveness of such programs in preventing adolescent pregnancy;

(iii) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS; and

(iv) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs.

(2) USE OF GRANT.—A condition for the receipt of a grant under section 603 is that the State involved agree that not more than 10 percent of the grant will be expended for the evaluation under paragraph (1).

SEC. 606. DEFINITIONS.

For purposes of this title:

(1) The term ''eligible State'' means a State that submits to the Secretary an application for a grant under section 603 that is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

(2) The term ''HIV/AIDS'' means the human immunodeficiency virus, and includes acquired immune deficiency syndrome.

(3) The term ''medically accurate'', with respect to information, means information that is supported by research, recognized as accurate and objective by leading medical, psychological, psychiatric, and public health organizations and agencies, and where relevant, published in peer review journals.

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

SEC. 607. APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this title, there is authorized to be appropriated $100,000,000 for each of the fiscal years 2005 through 2009.

(b) ALLOCATIONS.—Of the amounts appropriated under subsection (a) for a fiscal year—

(1) not more than 7 percent may be used for the administrative expenses of the Secretary in carrying out this title for that fiscal year; and

(2) not more than 10 percent may be used for the national evaluation under section 605(b).

TITLE VII—TEENAGE PREGNANCY PREVENTION

SEC. 701. SHORT TITLE.

This Act may be cited as the ''Preventing Teen Pregnancy Act''.

SEC. 702. TEENAGE PREGNANCY PREVENTION.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by inserting after section 399N the following section:

''SEC. 399O. TEENAGE PREGNANCY PREVENTION GRANTS.

''(a) AUTHORITY.—The Secretary may award on a competitive basis grants to public and private entities to establish or expand teenage pregnancy prevention programs.

''(b) GRANT RECIPIENTS.—Grant recipients under this section may include State and local not-for-profit coalitions working to prevent teenage pregnancy, State, local, and tribal agencies, schools, entities that provide afterschool programs, and community and faith-based groups.

''(c) PRIORITY.—In selecting grant recipients under this section, the Secretary shall give—

''(1) highest priority to applicants seeking assistance for programs targeting communities or populations in which—

''(A) teenage pregnancy or birth rates are higher than the corresponding State average; or

''(B) teenage pregnancy or birth rates are increasing; and

''(2) priority to applicants seeking assistance for programs that—

''(A) will benefit underserved or at-risk populations such as young males or immigrant youths; or

''(B) will take advantage of other available resources and be coordinated with other programs that serve youth, such as workforce development and after school programs.

''(d) USE OF FUNDS.—Funds received by an entity as a grant under this section shall be used for programs that—

''(1) replicate or substantially incorporate the elements of one or more teenage pregnancy prevention programs that have been proven (on the basis of rigorous scientific research) to delay sexual intercourse or sexual activity, increase condom or contraceptive use (without increasing sexual activity), or reduce teenage pregnancy; and

''(2) incorporate one or more of the following strategies for preventing teenage pregnancy: encouraging teenagers to delay sexual activity; sex and HIV education; interventions for sexually active teenagers; preventive health services; youth development programs; service learning programs; and outreach or media programs.

''(e) COMPLETE INFORMATION.—Programs receiving funds under this section that choose to provide information on HIV/AIDS or contraception or both must provide information that is complete and medically accurate.

''(f) RELATION TO ABSTINENCE-ONLY PROGRAMS.—Funds under this section are not intended for use by abstinence-only education programs. Abstinence-only education programs that receive Federal funds through the Maternal and Child Health Block Grant, the Administration for Children and Families, the Adolescent Family Life Program, and any other program that uses the definition of 'abstinence education' found in section 510(b) of the Social Security Act are ineligible for funding.

''(g) APPLICATIONS.—Each entity seeking a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

''(h) MATCHING FUNDS.—

''(1) IN GENERAL.—The Secretary may not award a grant to an applicant for a program under this section unless the applicant demonstrates that it will pay, from funds derived from non-Federal sources, at least 25 percent of the cost of the program.

''(2) APPLICANT'S SHARE.—The applicant's share of the cost of a program shall be provided in cash or in kind.

''(i) SUPPLEMENTATION OF FUNDS.—An entity that receives funds as a grant under this section shall use the funds to supplement and not supplant funds that would otherwise be available to the entity for teenage pregnancy prevention.

''(j) EVALUATIONS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) conduct or provide for a rigorous evaluation of 10 percent of programs for which a grant is awarded under this section;

''(B) collect basic data on each program for which a grant is awarded under this section; and

''(C) upon completion of the evaluations referred to in subparagraph (A), submit to the Congress a report that includes a detailed statement on the effectiveness of grants under this section.

''(2) COOPERATION BY GRANTEES.—Each grant recipient under this section shall provide such information and cooperation as may be required for an evaluation under paragraph (1).

''(k) DEFINITION.—For purposes of this section, the term 'rigorous scientific research' means based on a program evaluation that:

''(1) Measured impact on sexual or contraceptive behavior, pregnancy or childbearing.

''(2) Employed an experimental or quasi-experimental design with well-constructed and appropriate comparison groups.

''(3) Had a sample size large enough (at least 100 in the combined treatment and control group) and a follow-up interval long enough (at least six months) to draw valid conclusions about impact.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2005, and such sums as may be necessary for each subsequent fiscal year. In addition, there are authorized to be appropriated for evaluations under subsection (j) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.''.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 2337. A bill to establish a grant program to support coastal and water quality restoration activities in States bordering the Great Lakes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. STABENOW. Mr. President, I rise today to introduce the Great Lakes Community Restoration Act.

Before I discuss the bill, I want to say that it is extremely fitting that we are discussing the restoration of the Great Lakes, because today is Earth

Day. Earth Day is a time to reflect on the environmental gains we have made, and to challenge ourselves with a new environmental commitment for the future. Our environmental and natural resources are not merely important, they are vital to our future health and survival. The Great Lakes are one of our Nation's most precious and vital natural resources. I believe it is extremely important that we have a strong Federal, State and local commitment to protect them.

The Great Lakes contain one-fifth of the world's fresh water, and supply safe drinking water to thirty-three million people, including 10 million people who rely on Lake Michigan alone. The Great Lakes' coastlines are home to wetlands, dunes, and endangered plants and species. Lake Michigan alone contains over 417 coastal wetlands, the most of any Great Lake. Millions of people use the Great Lakes each year for recreation, enjoying beaches, good fishing and boating. The latest estimate shows that recreational fishing totals a $1.5 billion boost to Michigan's tourist economy alone.

However, it takes a real Federal, State, and local partnership to maintain this critical natural resource. Unfortunately, there are several environmental threats to the Great Lakes that we need to address. These include cleaning up contaminated sediments and pollutants that are affecting the Great Lakes ecosystem. During last year's electricity blackout, 650 pounds of vinyl chloride were dumped into the St. Clair River. This past February, another serious chemical spill occurred, dumping approximately 42,000 gallons of methyl ethyl ketone and methyl isobutyl ketone into the river, and forcing the shutdown of 10 drinking water plants. Last summer alone, 81 beaches in Michigan were closed due to elevated E coli levels. This contamination affects our water supply, our recreation and tourism, and Michigan's overall economy.

The Great Lakes have also been inundated with invasive species. Over the past century, more than 87 non-indigenous aquatic species have been accidentally introduced into the Great Lakes. They have damaged the lakes in a number of ways. They have destroyed thousands of fish and threatened our clean drinking water. For example, Lake Michigan once housed the largest self-producing lake trout fishery in the world. The invasive sea lamprey, which was introduced from ballast water almost 80 years ago has fed-on and greatly contributed to the decline of trout and whitefish in the Great Lakes. Today, lake trout must be stocked because it cannot naturally reproduce in the lakes. These invasive species also cause damage to our community water and sewer systems.

Michigan also is home to over 120 lighthouses, more than any other State in the Nation. The oldest Michigan lighthouses date back to the 1820s. These lighthouses are an inseparable part of Michigan's identity and cultural history. Unfortunately, many of our lighthouses are poorly maintained and in grave need of repair. In order to preserve our history and heritage of the Great Lakes, it is imperative that we maintain our lighthouses.

As I mentioned before, protecting the Great Lakes requires a coordinated effort at all levels of government. However, our local communities are the ones who are immediately affected by these problems, both environmentally and economically.

That is why I have introduced the Great Lakes Community Restoration Act. The Act will provide $400 million directly to local communities to help protect and restore the Great Lakes coastal region. NOAA will award the grant for local projects, such as repair of sewer systems damaged by invasive species, lighthouse restoration, and the local cleanup of water pollution and sediments.

Protecting the Great Lakes requires a Federal, State and local partnership, and this Act will provide local communities with the resources they need to continue their vital stewardship of the Great Lakes.

By Mr. BOND (for himself, Mr. KENNEDY, and Mr. JOHNSON):

S. 2338. A bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is an honor to join my colleagues, Senator CHRISTOPHER BOND and Senator TIM JOHNSON, in introducing the Arthritis Prevention, Control, and Cure Act of 2004. Senator BOND has been outstanding in his leadership and support of this bipartisan legislation, which is a product of the untiring efforts of many leaders in the arthritis community including patients, families, and health care providers. The goal of this legislation is to lessen the burden of arthritis and other rheumatic diseases on citizens across our Nation.

Seventy million adults in the United States now suffer from arthritis or related conditions. Of these, one in three is under 65. Over 300,000 are children who struggle each day to get out of bed, go to school, and play with their friends. Arthritis accounts for 4 million days of hospital care ach year. It costs $51 million in annual medical care, and $86 million more is lost in productivity. Arthritis is an overwhelming and debilitating hardship for countless families across the Nation.

In recent years, increasing effective research into the prevention and treatment of arthritis has led to measures that successfully reduce pain and improve the quality of life for millions who suffer with this disease. Cooperative efforts at every level have led to the development of a National Arthritis Action Plan, with emphasis on public health strategies to make timely information and medical care much more widely available across the country. However, the commitment to implement these important public health approaches has been very limited so far. Advances in research and treatment reach less than 1 percent of people with arthritis. We need to do much more to bring the highest quality of care to those with arthritis and other rheumatic diseases.

Our legislation will reduce the burden of unnecessary suffering for our citizens by supporting implementation of effective strategies to carry out the National Arthritis Action Plan. That means support for comprehensive arthritis control and prevention programs. It means the development of arthritis education and outreach activities, and more research on the best ways to prevent and treat the illness at various ages.

It also means developing better care and treatment for children with arthritis and rheumatic diseases. We include planning grants to support innovative research on juvenile arthritis. We support training for health care providers specializing in pediatric rheumatology, so that all children will have greater access to physicians trained in state-of-the-art care for arthritis.

This legislation will improve the quality of life for large numbers of adults and children, and avoid thousands of dollars in medical costs for each patient. Millions of our fellow citizens will have greater access to the best available information and medical care to prevent and treat this debilitating disease. I urge our colleagues to support this timely and needed legislation.

Mr. JOHNSON. Mr. President, today I join a bipartisan group of Senators in introducing the Arthritis Prevention, Control and Cure Act of 2004. This legislation is so important to addressing arthritis and chronic joint problems which are the leading causes of disability in the United States impacting nearly 70 million adults. I want to thank Senators KENNEDY and BOND who have been working hard on this legislation over the last year.

The prevalence of chronic diseases in the U.S. have become the most significant public health problem of our current day. The beginning of the last century raised many infectious disease public health problems. But safe drinking water, clean working conditions and modern medicines have changed the public health dynamics. While we do need to continue to be concerned about newly emerging infectious diseases such as SARS and West Nile Virus, the biggest threat to our health as a nation is the impact of chronic diseases. It is estimated that by the year 2020, 157 million Americans will suffer from some chronic illness. Whether it be asthma, diabetes, heart disease or arthritis, these conditions are costly to our health care system and erode quality of life.

Arthritis and other rheumatic diseases are among the most common conditions in the United States, diminishing mental health and imposing significant limitations on daily activities. One out of every 3, or nearly 70 million adults in the United States suffer from arthritis or chronic joint symptoms. In my home State, approximately 173,000 adults suffer from the disease, or 31 percent of the adult population. Arthritis is exceeded only by heart disease as a cause of work disability. In addition, nearly 300,000 children in the United States, or 3 children out of every 1,000, have some form of arthritis or other rheumatic disease. The costs associated with arthritis are immense. The disease results in 750,000 hospitalizations, 44 million outpatient visits and 4 million days of hospital care every year. The estimated total costs of arthritis in the U.S., including lost productivity exceeds $86 billion.

While the current impact of the disease is quite astounding, there is much that can be done to prevent and control arthritis. Despite myths that inaccurately portray this illness as an old persons disease, some forms of arthritis, such as osteoarthritis, can be prevented with weight control and other precautions. More broadly, the pain and disability accompanying all types of arthritis can be minimized through early diagnosis and appropriate disease management. There are many interventions that have been proven effective in reducing the burden of this disease, but unfortunately up until this point, those strategies have been underutilized.

The National Arthritis Action Plan, developed by the Centers for Disease Control or CDC, Arthritis Foundation and the Association of State and Territorial Health Officials, put forward a comprehensive strategy to meet the challenged of addressing arthritis. This legislation puts the action plan into law, directing the CDC and National Institutes of Health to formalize the intentions of that action plan.

This legislation enhances support for the implementation of public health strategies consistent with the National Arthritis Action Plan. Through the CDC, the legislation will implement comprehensive arthritis control and prevention programs, developing arthritis education and outreach activities, and conducting research on prevention and treatment across the lifespan. It also includes planning grants in support of innovative research related to juvenile arthritis and supports health care provider training for those specializing in pediatric rheumatology. This bill will also assure that the National Arthritis Action Plan is implemented in a systematic way, and guarantees continued focus on quality research and care for adults and children who suffer from this debilitating disease.

The bill provides funds for local demonstration projects, including community-based and patient self-management programs for arthritis control, prevention and care. State and tribal grants will also be made available for comprehensive prevention programs administered by state health departments. While CDC does provide for some grants currently, it is my hope that by moving this legislation forward, eventually, all states will have comprehensive arthritis programs to meet the increasing need.

I want to again thank Senators KENNEDY and BOND for their leadership on this issue. I urge my colleagues to support this important bill.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Ms. STABENOW, and Ms. MIKULSKI):

S. 2339. A bill to amend part D of title XVIII of the Social Security Act to improve the coordination of prescription drug coverage provided under retiree plans and State pharmaceutical assistance programs with the prescription drug benefit provided under the medicare program, and for other purposes; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today along with my colleagues, Senators LAUTENBERG, STABENOW, and MIKULSKI, to introduce legislation, the Preserving Access to Affordable Drugs (PAAD) Act. This legislation is essential to ensuring that no senior who has existing prescription drug coverage receives less coverage once the Medicare prescription drug program goes into effect.

The Congressional Budget Office has estimated that as many as 1.7 million retirees could lose their employer-based prescription drug benefits as a result of the new Medicare prescription drug benefit. Also as a result of the new law, hundreds of thousands of seniors currently enrolled in state pharmacy assistance programs (SPAPs) will be forced out of those programs and into a private Medicare drug plan. Additionally, approximately six million seniors who are dually eligible for Medicare and Medicaid will lose access to their Medicaid prescription drug benefits, which are more generous and provide greater access to a variety of drugs than the Medicare benefit will. And, despite the fact that the new Medicare law has huge gaps in coverage, seniors who choose to enroll in the new drug benefit will be prohibited from purchasing Medigap coverage to pay for prescription drugs not covered by the new Medicare benefit.

No senior should be made worse off by the new Medicare law. The law should expand benefits—not rescind them. The PAAD Act will make critical changes to the Medicare law to ensure that the above-mentioned benefits are safeguarded.

First, the PAAD Act will preserve retiree prescription drug benefits by allowing employer contributions to count towards the out of pocket threshold. Under the Medicare law, retirees with employer-based coverage would receive less of a subsidy from Medicare than seniors without such coverage. This lower subsidy creates a disincentive to employers to continue to provide these benefits and will lead to a significant reduction in employer-based benefits. The PAAD Act will ensure that employer-based plans receive the same subsidization as the Medicare prescription drug plans.

Second, the PAAD Act will restore language that I added to the Senate-passed Medicare bill to allow states with pharmaceutical assistance programs to administer the Medicare prescription drug benefit to Medicare beneficiaries enrolled in these programs. This will ensure a seamless transition for these seniors and will ensure that they maintain the generous prescription drug coverage that many states, including New Jersey, offer.

Third, the PAAD Act will enable states to supplement the Medicare prescription drug benefit for the neediest Medicare beneficiaries, those dually-eligible for the Medicaid program. Under current law, Medicaid wraps around Medicare, paying for copayments and premiums, for those beneficiaries who are extremely sick and poor. Under the new Medicare law, states will be prohibited from using Medicaid to wrap around the Medicare drug benefit for these seniors, stripping them of access to needed prescription drugs. The PAAD Act will ensure that states can provide supplemental Medicaid prescription drug coverage to complement the Medicare drug benefit for seniors who are dually eligible for Medicare and Medicaid.

Fourth, the PAAD Act will restore seniors' access to supplemental drug benefits through the Medigap program. Seniors should be allowed to improve the Medicare drug benefit if they so choose.

Finally, the PAAD Act will also eliminate the risky demonstration program to privatize Medicare, a program which if not eliminated is likely to impact my state of New Jersey. Under the new Medicare law, seniors who live in areas where a large number of seniors are enrolled in Medicare managed care plans could end up in this privatization scheme. This new program is slated to go into effect in 2010. But, if it were to go into effect today, Gloucester, Burlington, Camden and Salem Counties in New Jersey would likely be chosen to participate in it.

One of the goals of medicine is to do no harm. The new Medicare law violates that tenet. My legislation is critical to preserving and protecting existing prescription drug coverage while expanding it to those who currently lack such coverage. I look forward to working with my colleagues to pass this legislation and improve prescription drug benefits for all seniors.

By Mr. BINGAMAN (for himself, Mr. KENNEDY, and Mr. REED):

S. 2340. A bill to reauthorize title II of the Higher Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Capacity to Learn for All Students and Schools (CLASS) Act of 2004, along with Senators KENNEDY and REED, to ensure that all of our students receive the high quality of instruction they need and deserve. We know that teacher quality is the single most important factor in determining the success of our school children. Children who consistently have access to good teachers are more likely to do well academically; those who do not are more likely to fall behind.

As the son of two former teachers, I am well aware of the satisfactions and challenges that accompany a career in teaching. I have been a long-time and strong supporter of our devoted teachers and our public schools. Over the years, I have visited many schools throughout my home State of New Mexico and spoken with countless students and teachers. I frequently have witnessed the dedication of our teachers in preparing young people to lead meaningful and productive adult lives.

So many of us can look back on our own student years and recall a special teacher whose passion for learning ignited a similar passion in us, whose high standards caused us to set higher standards for ourselves, and whose commitment to education provided a model for our own lives. We need to ensure that all children have access to such special teachers. Many other Senators share my interest in this issue, including my colleagues on the HELP Committee. In fact, I am pleased to be introducing this bill along with the Senior Senator from Rhode Island. Senator REED's PRREP Act is a great complement to the CLASS Act, and I look forward to working with him and other members of the Committee as we proceed toward reauthorization of the Higher Education Act.

The current act authorizes three types of competitively awarded grants: State Grants, Partnership Grants, and Recruitment Grants. The CLASS Act significantly increases funding for these programs, strengthens the provisions of the current law, and expands the learning and teaching capacity of students, teachers, and schools. I want to mention some of our critical educational needs and explain how the CLASS Act addresses those needs.

First, we need to ensure that all teachers are highly qualified, have strong teaching skills, understand scientifically based research and its applicability, and can use technology effectively in the classroom. The preparation afforded prospective teachers must enable them to meet the varied needs of our nation's students, of our schools and institutions of higher education, and of our competitive workforce.

The CLASS Act will address this need in a number of ways. For example, the CLASS Act establishes Academic Teaching Centers (ATCs). The ATCs provide a setting—a model teaching laboratory—for the integration of education and training, research, and evidence-based practice for teacher candidates, university professors, and master teachers. Modeled on academic health centers, ATCs offer prospective teachers with a system of practice-based support at initial levels of preparation, training during the first years of practice, and continued support in maintaining high levels of skill mastery. The ATC provides a clinical setting with an education and research mission, mentorship by expert practitioners, cross-pollination between practice and research, and high-quality services for its K–12 students.

The CLASS Act also authorizes a Professional Development Program (PDP) that encourages states to pursue alignment with National Board for Professional Teaching Standards, a tiered licensure system, multiple career paths, and opportunities for professional growth. The PDP will improve teacher recruitment and retention by increasing the attractiveness of a teaching career, encouraging teachers to enhance their competencies and skills, and reinforcing their efforts to advance in their profession. The CLASS Act also encourages clinical, field, induction, mentoring, and other professional development experiences.

Further, the CLASS Act requires rigorous standards for teacher certification or licensure designed to enhance teacher quality and to ensure that all prospective teachers meet the same high State standards. The act also expands programs that prepare prospective teachers to use advanced technology.

Second, we need to empower teachers and schools to provide access for all students to a high-quality general education curriculum, including minorities, students in high-need schools, and students with disabilities and limited-English proficiency. Our teachers need to be able to provide effective instruction to diverse student populations and to address special learning needs. We also need to recruit new teachers from underrepresented groups and to increase access to certification or licensure for other qualified individuals.

The CLASS Act will address this need by creating Centers of Excellence. The Centers of Excellence will increase minority teacher and principal recruitment, development, and retention. The act will also prepare teachers to provide access to the general education curriculum for all students, including students with disabilities and limited-English proficiency.

Third, we need to enhance the ability of schools, districts, and states to collect, analyze, and utilize data to improve schools and programs and to fulfill the requirements of No Child Left Behind and the Higher Education Act. Good data and data systems are the bedrock on which accountability is built. Yet present data and data systems are too often inadequate to meet the needs of our schools, districts, states, and nation. For example, in 2003 the General Accounting Office reported that states did not have complete or consistent criteria to determine the number of highly qualified teachers and that state data systems did not track the federal criteria.

The CLASS Act will address this need by strengthening accountability through improved assessment procedures that are valid and reliable, are aligned with reporting requirements, and allow for accurate and consistent reporting. The CLASS Act will also require a State-level needs assessment for Teacher Enhancement Grants to identify areas of greatest need and to specify a timetable for meeting identified needs. The needs assessment will assist States to identify teacher production needs in high-need academic subjects, such as mathematics and science; in high-need services, such as special education, bilingual education, and early childhood education; in high-need rural and urban areas; and in high-poverty, high-minority, and low-performing schools.

Further, the CLASS Act will create data systems designed to improve public education, including enhancing teacher preparation programs. State educational agencies can apply for new Data Systems Grants that enable them to develop or expand data systems that have the capacity to integrate and coordinate individual student data from educational and employment settings; to conduct analyses necessary for evaluating programs and policies and identifying best practices; and to facilitate alignment among schools, institutions of higher education, and employment settings. These data systems also allow teacher preparation programs to follow graduates as they proceed toward certification or licensure and into the classroom.

Fourth, we need to improve teacher recruitment and retention. Each year, more of the nation's teachers leave the field than enter the profession. In fact, approximately one-third of teachers leave the field during their first 3 years, and almost half leave during their first 5 years. Moreover, the overall turnover rate for teachers in high-poverty areas is almost a third higher than the rate for all teachers. Some of our schools, such as the rural schools in New Mexico, face unique challenges in recruiting and retaining highly qualified teachers. These challenges include low salaries, geographic and social isolation, housing shortages, poor physical working conditions, a paucity of teacher preparation programs targeted to rural schools, limited opportunities for professional development, and the necessity for teachers to teach more than one grade or subject.

The CLASS Act will address this need in the following ways. Among other initiatives, the act will fund a wide range of teacher recruitment and retention strategies designed to put—and keep—highly qualified teachers in every classroom, including induction

and mentoring for beginning teachers and ongoing opportunities for professional growth and advancement.

Importantly, the CLASS Act will also create the Rural Education Recruitment and Retention Program to address the needs of rural districts by funding a range of recruitment strategies, such as tuition assistance, loan forgiveness, housing assistance, and financial incentives for working in areas of greatest need; as well as retention strategies, such as mentoring programs and ongoing opportunities for professional growth and advancement. In addition, the act encourages partnerships designed to meet the needs of rural schools.

Fifth, we need to better prepare students for postsecondary education and a competitive workforce. According to recent data, a majority of college professors and employers rate high school graduates' skills in spelling, grammar, writing, and math as only fair or poor. Too many students leave high school ill-prepared to meet the requirements of postsecondary education or the demands of high-skilled, high-wage employment. Half of all students entering higher education take at least one remedial course, and, according to the U.S. Chamber of Commerce, employers frequently report difficulty in finding qualified workers who have satisfactory skills. High school graduation requirements are often not aligned with the requirements governing college admission, obtaining a job, or enrolling in credit-bearing courses once in college. High school curricula and assessments often stress different knowledge and skills than are required by college entrance and placement requirements.

The CLASS Act will address this need by creating the data systems described above that are designed to improve public education and to facilitate alignment among schools, institutions of higher education, and employment settings. These systems will have the capacity to integrate and coordinate individual student data from educational and employment settings. The CLASS Act will also support programs that provide special certification in advanced placement (AP)-level or international baccalaureate (IB)-level content and pedagogy.

In conclusion, I would like to say that I am very pleased to introduce a bill designed to ensure that all of our students are taught by highly qualified and effective teachers. No task is more important.

Each child who falls behind diminishes the power of our society's future. I hope you will all join me in reinforcing our national commitment to teacher preparation and teacher quality.

I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2340

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 ''Capacity to Learn for All Students and Schools Act''.

SEC. 2. TEACHER QUALITY ENHANCEMENT.

(a) TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS.—Part A of title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended to read as follows:

''PART A—TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS

''SEC. 201. PURPOSES; DEFINITIONS.

''(a) PURPOSES.—The purposes of this part are to—

''(1) improve student academic achievement;

''(2) increase the size and scope of programs funded under this part to ensure that all teachers are highly qualified;

''(3) hold institutions of higher education accountable for preparing teachers who are highly qualified, have the necessary teaching skills, and are trained in the effective uses of technology in the classroom;

''(4) recruit and retain individuals who—

''(A) increase the diversity of the workforce;

''(B) teach high-need academic subjects, such as mathematics and science;

''(C) provide high-need services, such as special education, bilingual education, and early childhood education;

''(D) serve in high-need areas, such as rural and urban communities;

''(E) meet the needs of high-poverty, high-minority, and low-performing schools; and

''(F) are prepared to provide access to the general education curriculum for all students, including students with disabilities and students with limited-English proficiency;

''(5) enhance the quality of the current and future teaching force by improving the preparation of prospective teachers and expanding professional development activities;

''(6) ensure that all teachers, regardless of their route to the profession, meet the same rigorous State standards for certification or licensure;

''(7) encourage learning partnerships among parents, community members, and educators that lead to improved student academic achievement; and

''(8) promote collaboration among college and university faculty and administrators, elementary school and secondary school teachers and administrators, State educational agencies, teacher and education organizations, and organizations representing the scientific disciplines associated with teaching and learning.

''(b) DEFINITIONS.—In this part:

''(1) ARTS AND SCIENCES.—The term 'arts and sciences' means—

''(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers 1 or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

''(B) when referring to a specific academic subject matter area, the disciplines or content areas in which academic majors are offered by the arts and science organizational unit.

''(2) EXEMPLARY TEACHER.—The term 'exemplary teacher' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency in which—

''(A)(i) 15 percent of the students served by the agency are from families with incomes below the poverty line;

''(ii) there are more than 5,000 students served by the agency from families with incomes below the poverty line; or

''(iii) there are less than 600 students in average daily attendance in all the schools that are served by the agency and each of the schools served by the agency is designated with a school locale code of 7 or 8, as determined by the Secretary; and

''(B)(i) there is a high percentage of teachers who are not highly qualified; or

''(ii) there is a high teacher turnover rate.

''(4) HIGH-NEED SCHOOL.—The term 'high-need school' means a public elementary school or secondary school—

''(A) in which there is a high concentration of students from families with incomes below the poverty line; or

''(B) that is identified as in need of school improvement or corrective action pursuant to section 1116 of the Elementary and Secondary Education Act of 1965.

''(5) HIGHLY QUALIFIED.—The term 'highly qualified' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(6) PARENT.—The term 'parent' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(7) PARENTAL INVOLVEMENT.—The term 'parental involvement' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(8) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

''(9) PROFESSIONAL DEVELOPMENT.—The term 'professional development' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(10) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(11) TEACHING SKILLS.—The term 'teaching skills' means skills—

''(A) grounded in the science of teaching and learning that teachers use to create effective instruction in subject matter content and that lead to student achievement and the ability to apply knowledge; and

''(B) that require an understanding of the learning process itself, including an understanding of—

''(i) the use of strategies specific to the subject matter;

''(ii) ongoing assessment of student learning and the use of such assessment for evaluation of curriculum and instructional practices;

''(iii) identification of individual differences in ability and instructional needs;

''(iv) the use of strategies that will meet the instructional needs of students with disabilities and students with limited-English proficiency;

''(v) classroom management; and

''(vi) interaction with parents and others to promote student learning.

''SEC. 202. STATE GRANTS.

''(a) GRANTS AUTHORIZED.—From amounts made available under section 211(1) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible States to enable

the eligible States to carry out 1 or more activities authorized under subsection (d) for the following purposes:

''(1) Enhancing teacher preparation, licensure or certification programs, recruitment, or retention.

''(2) Developing or expanding data systems designed to collect, analyze, and utilize data for the purpose of improving public education, including enhancing teacher preparation.

''(3) Increasing opportunities for professional development.

''(b) ELIGIBLE STATE.—

''(1) DEFINITION.—In this part, the term 'eligible State' means a State educational agency.

''(2) CONSULTATION.—The State educational agency shall consult with the Governor, State board of education, or State higher education agency, as appropriate, with respect to the activities assisted under this section.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

''(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible State shall, at the time of the initial grant application, submit an application to the Secretary that—

''(1) meets the requirements of this section;

''(2) demonstrates that the State is in full compliance with the relevant provisions of sections 208 and 209;

''(3) demonstrates that the State has developed a plan that includes steps described in section 1111(b)(8)(C) of the Elementary and Secondary Education Act of 1965;

''(4) includes a State-level needs assessment to identify areas of greatest need related to—

''(A) teacher production—

''(i) in high-need academic subjects, such as mathematics and science;

''(ii) in high-need services, such as special education, bilingual education, and early childhood education; and

''(iii) among underrepresented groups, including minorities;

''(B) the instructional needs of students with disabilities and students with limited-English proficiency;

''(C) teachers who are not highly qualified or who teach out of field;

''(D) high-poverty, high-minority, or low-performing, or all of such, schools;

''(E) teacher retention;

''(F) professional development; and

''(G) instructional technology;

''(5) specifies measurable objectives based on the State-level needs assessment, as well as a timetable for achieving these objectives;

''(6) reflects knowledge of scientifically based principles of learning in State standards;

''(7) includes a plan for achieving the specified objectives;

''(8) includes a description of how the eligible State intends to use funds provided under this section to address the needs identified in subparagraph (D); and

''(9) contains such other information and assurances as the Secretary may require.

''(d) USES OF FUNDS.—

''(1) USES OF FUNDS FOR TEACHER ENHANCEMENT GRANTS.—

''(A) REQUIRED USES OF FUNDS.—An eligible State that receives a grant under this section to carry out the purposes of subsection (a)(1) shall use the grant funds for both of the following:

''(i) RIGOROUS AND ALIGNED TEACHER CERTIFICATION OR LICENSURE PROGRAMS.—Ensuring that—

''(I) the State's teacher certification or licensure program is rigorous and meets high State-determined standards that are grounded in scientifically based research about how students learn;

''(II) the State's program approval standards are aligned with kindergarten through grade 12 curriculum standards and State teacher licensure standards;

''(III) teachers are highly qualified and have the necessary teaching skills; and

''(IV) teacher certification and licensure assessments are—

''(aa) used for purposes for which such assessments are valid and reliable;

''(bb) consistent with relevant, nationally recognized professional and technical standards; and

''(cc) aligned with the reporting requirements of sections 207 and 208.

''(ii) RECRUITMENT AND RETENTION.—Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to—

''(I) recruit and retain highly qualified teachers;

''(II) address identified needs concerned with—

''(aa) underrepresented groups;

''(bb) high-need academic subjects, such as mathematics and science;

''(cc) high-need services, such as special education, bilingual education, and early childhood education;

''(dd) high-need areas, such as rural and urban communities;

''(ee) high-need schools, including those with high rates of teacher turnover; and

''(ff) students with disabilities and students with limited-English proficiency;

''(III) offer mentoring programs for new teachers during such teachers' first 3 years of teaching; and

''(IV) provide access to ongoing professional development opportunities for teachers and administrators.

''(B) ALLOWABLE USES OF FUNDS.—In addition to the requirements of subparagraph (A), an eligible State that receives a grant under this section to carry out the purposes of subsection (a)(1) may use grant funds for the following:

''(i) REFORMS.—Implementing reforms that hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly qualified, possess strong teaching skills, are able to understand scientifically based research and its applicability, and are able to use technology effectively in the classroom.

''(ii) ALTERNATIVE ROUTES TO CERTIFICATION FOR TEACHING.—Providing prospective teachers with alternative routes to State certification or licensure that—

''(I) enhance access to certification or licensure for qualified individuals, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college graduates with distinguished academic records;

''(II) impart the necessary academic content to produce highly qualified teachers;

''(III) impart the necessary teaching skills;

''(IV) demonstrate that all teachers, regardless of their route to the profession, meet the same rigorous State standards; and

''(V) provide mentoring and support during the teachers' initial years of teaching, as well as training and compensation for such activities.

''(iii) PILOT STUDIES.—In collaboration with teacher preparation programs (including alternative routes to certification) that agree to participate, and using a data system consistent with paragraph (2) unless the State already has sufficient information system capacity to support pilot studies with 1 or more programs, conducting pilot studies designed to develop and evaluate procedures that can provide credible and persuasive evidence that graduates of teacher preparation programs (including those who complete alternative routes to certification) are effective at improving student achievement, including using funds for—

''(I) efforts to assess the impact of teacher preparation program graduates on student achievement;

''(II) identification of specific practices that lead to consistent student achievement gains;

''(III) identification of variables that can influence student achievement; and

''(IV) development of mechanisms for leaders of institutions of higher education to make use of the information identified in subclauses (I), (II), and (III) for purposes of teacher preparation program improvement.

''(iv) SPECIAL CERTIFICATION FOR PROSPECTIVE ADVANCED PLACEMENT TEACHERS.—Developing and implementing teacher preparation programs that provide special certification in advanced placement (AP) level or international baccalaureate (IB) level content and pedagogy, including undergraduate specializations in in-depth study of subject-specific content and practical pedagogical experience through student teaching, and master's degree level programs that lead to a master's degree in AP level or IB level content.

''(v) SOCIAL PROMOTION.—Development and implementation of efforts to address the problem of social promotion and to prepare teachers to effectively address the issues raised by ending the practice of social promotion.

''(2) USE OF FUNDS FOR DATA SYSTEMS GRANTS.—An eligible State that receives a grant under this section to carry out the purposes of subsection (a)(2) shall use the grant funds to develop or expand data systems. The data systems shall do each of the following:

''(A) Enable the eligible State to—

''(i) integrate and coordinate the analysis of individual student-level data from multiple data systems, including data from kindergarten through grade 12 education, postsecondary education, and employment;

''(ii) conduct analyses necessary to help educators evaluate programs and policies, identify and study best practices, and continuously improve schools and programs; and

''(iii) facilitate alignment and coordination between kindergarten through grade 12 schools and institutions of higher education, and between institutions of higher education and postgraduate employment settings.

''(B) Have the ability to match, compare, or track, as appropriate—

''(i) individual records of the same student over time;

''(ii) an individual student with an individual teacher;

''(iii) kindergarten through grade 12 data and higher education data;

''(iv) higher education data and postgraduate data; and

''(v) all of the data systems to State employment records.

''(C) Include a State data audit process to ensure accurate and complete information.

''(D) Be designed so as not to infringe on the established privacy rights of students, teachers, and employees.

''(3) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT PROGRAM GRANTS.—An eligible State that receives a grant under this section to carry out the purposes of subsection (a)(3) may use the grant funds to carry out any of the following activities:

''(A) Aligning State teacher standards with those of the National Board for Professional Teaching Standards.

''(B) Developing a progressive career system in which highly qualified teachers who pursue advanced licensure levels are required to demonstrate increased competencies and undertake increased responsibilities, for increased compensation, as they progress through levels such as the following:

''(i) Level I: an initial license issued for the first 3 years of teaching that gives a beginning highly qualified teacher the opportunity, through a formal induction program, to progress to Level II.

''(ii) Level II: a professional license given to an experienced teacher whose performance has been satisfactory during such teacher's first 3 years of teaching.

''(iii) Level III: a master license for those teachers who—

''(I) obtain advanced credentials as board-certified teachers, exemplary teachers, master teachers, or other advanced credentials;

''(II) choose to advance as instructional leaders in the teaching profession and undertake greater responsibilities, such as curriculum development, peer intervention, and mentoring; or

''(III) demonstrate exceptional effectiveness in helping students learn.

''(C) Developing multiple career paths for teachers, such as highly qualified mentor teachers or exemplary teachers.

''(D) Providing opportunities for professional growth, such as special certification in advanced placement or international baccalaureate content and pedagogy.

''(E) Subsidizing candidates who pursue advanced credentials.

''(F) Providing financial incentives, such as a bonus or higher salary, for teachers who obtain advanced credentials.

''(e) RULE OF CONSTRUCTION.—Nothing in subsection (d)(2) shall be construed to authorize the public release or publication of personally identifying information.

''SEC. 203. PARTNERSHIP GRANTS.

''(a) GRANTS.—From amounts made available under section 211(2) for a fiscal year, and not reserved under such section, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible partnerships to enable the eligible partnerships to carry out the activities described in subsections (d) and (e).

''(b) DEFINITIONS.—

''(1) ELIGIBLE PARTNERSHIP.—In this part, the term 'eligible partnership' means an entity that—

''(A) shall include—

''(i) a partner institution;

''(ii) a school of arts and sciences; and

''(iii) a high-need local educational agency; and

''(B) may include a Governor, State educational agency, the State board of education, the State agency for higher education, an institution of higher education not described in subparagraph (A), a community college, a public charter school, a public or private elementary school or secondary school, an educational service agency, a public or private nonprofit educational organization, a business, a teacher organization, or a prekindergarten program.

''(2) PARTNER INSTITUTION.—In this section, the term 'partner institution' means a private independent or State-supported public institution of higher education, the teacher preparation program of which demonstrates that—

''(A) graduates from the teacher preparation program who intend to enter the field of teaching exhibit strong performance on State-determined qualifying assessments and are highly qualified; or

''(B) the teacher preparation program requires all the students of the program to participate in intensive clinical experience to meet high academic standards, to possess strong teaching skills, and to become highly qualified.

''(c) APPLICATION.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

''(1) contain a needs assessment of all the partners with respect to teaching and learning and a description of how the partnership will coordinate with other teacher preparation or professional development programs, and how the activities of the partnership will be consistent with State, local, and other education reform activities that promote student achievement;

''(2) contain a resource assessment that describes the resources available to the partnership, the intended use of the grant funds, including a description of how the grant funds will be fairly distributed in accordance with subsection (f), and the commitment of the resources of the partnership to the activities assisted under this part, including financial support, faculty participation, time commitments, and continuation of the activities when the grant ends; and

''(3) contain a description of—

''(A) how the partnership will meet the purposes of this part;

''(B) how the partnership will carry out the activities required under subsection (d) and any permissible activities under subsection (e); and

''(C) the partnership's evaluation plan pursuant to section 207(b).

''(d) REQUIRED USES OF FUNDS.—An eligible partnership that receives a grant under this section shall use the grant funds to carry out each of the following activities:

''(1) REFORMS.—Implementing reforms within teacher preparation programs to hold the programs accountable for preparing teachers who are highly qualified, have strong teaching skills, are able to understand scientifically based research and its applicability, and are able to use technology effectively in the classroom.

''(2) CLINICAL EXPERIENCE AND INTERACTION.—Providing sustained and high quality preservice and in-service clinical experience in school settings, including the mentoring of prospective teachers by exemplary teachers, substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and providing support, including training and compensation, for such interaction.

''(3) PROFESSIONAL DEVELOPMENT.—Creating opportunities for enhanced and ongoing professional development for teacher educators and other school personnel.

''(4) TEACHER PREPARATION AND PARENTAL INVOLVEMENT.—Preparing teachers with the knowledge and skills to—

''(A) provide instruction to diverse student populations, including individuals with different learning styles, disabilities, limited-English proficiency, and special learning needs;

''(B) implement gap-closing instructional strategies, as appropriate;

''(C) manage and improve student behavior in the classroom;

''(D) work with and involve parents in their children's education; and

''(E) use technology effectively in the classroom.

''(e) ALLOWABLE USES OF FUNDS.—An eligible partnership that receives a grant under this section may use such funds to carry out any of the following activities:

''(1) DEVELOPMENT OF ALTERNATIVE ROUTES TO STATE CERTIFICATION.—Developing or refining alternative route programs that provide prospective teachers with the necessary teaching skills and that lead to State certification.

''(2) DISSEMINATION AND COORDINATION.—Broadly disseminating information on effective practices used by the partnership, and coordinating with the activities of the Governor, State board of education, State higher education agency, and State educational agency, as appropriate.

''(3) MANAGERIAL AND LEADERSHIP SKILLS.—Developing and implementing proven mechanisms to provide teacher leaders, principals, and superintendents with effective managerial and leadership skills that result in increased student achievement.

''(4) TEACHER RECRUITMENT.—Activities described in section 204(d).

''(5) TEACHER MENTORING.—Developing a teacher mentoring program that offers mentoring for teachers in their first 3 years of teaching, including requiring rigorous qualifications for mentors, providing training and stipends for mentors, providing opportunities for mentors and mentees to observe each other's teaching methods in classroom settings during the school day, and establishing an evaluation and accountability plan for mentoring activities.

''(6) PROFESSIONAL DEVELOPMENT.—Creating opportunities for enhanced and ongoing professional development throughout the educational continuum for new teachers, teachers already in the classroom, paraprofessionals, and school administrators that leads to a steady increase in mastery of content knowledge and the repertoire of effective teaching, assessment, and leadership skills. Such professional development shall include specially developed opportunities for mid-career enhancement.

''(7) COORDINATION WITH OTHER INSTITUTIONS OF HIGHER EDUCATION.—Coordinating with other institutions of higher education, including community colleges, to implement teacher preparation programs that support prospective teachers in obtaining baccalaureate degrees and State certification or licensure.

''(8) FIELD EXPERIENCE IN MATHEMATICS, SCIENCE, AND TECHNOLOGY.—Creating opportunities for teachers and prospective teachers for field experience and training through participation in professional business, research, and work environments in areas relating to mathematics, science, and technology.

''(9) TEACHER PREPARATION ENHANCEMENT INTERNSHIP.—Developing a 1-year paid internship program for prospective teachers who have completed a teacher preparation program at an institution of higher learning to enable such prospective teachers to acquire the skills and experience necessary for success in teaching, including providing intensive clinical training and combining in-service instruction in teacher methods and assessments with classroom observations, experiences, and practices. Such interns shall have a reduced teaching load and a mentor for assistance in the classroom.

''(10) SCHOOL/HIGHER EDUCATION PARTNERSHIPS.—Developing new models of teacher preparation that—

''(A) involve partnerships between schools and institutions of higher education;

''(B) meet the requirements listed in subsection (d)(4); and

''(C) offer leadership preparation that incorporates recruitment, high-quality clinical experience, field experiences, mentoring, and professional development.

''(f) SPECIAL RULE.—No individual member of an eligible partnership shall retain more than 50 percent of the funds made available to the partnership under this section.

''(g) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of more than 1 Governor, State board of education, State educational agency, local educational agency, or State agency for higher education.

''SEC. 204. TEACHER RECRUITMENT GRANTS.

''(a) PROGRAM AUTHORIZED.—From amounts made available under section 211(3) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible applicants to enable the eligible applicants to carry out activities described in subsection (d).

''(b) ELIGIBLE APPLICANT DEFINED.—In this section, the term 'eligible applicant' means—

''(1) an eligible State described in section 202(b); or

''(2) an eligible partnership described in section 203.

''(c) APPLICATION.—Any eligible applicant desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require, including—

''(1) a description of the assessment that the eligible applicant, and the other entities with whom the eligible applicant will carry out the grant activities, have undertaken to determine the most critical teaching needs of the participating high-need local educational agencies;

''(2) a description of the activities the eligible applicant will carry out with the grant and how such activities will address the identified needs; and

''(3) a description of the eligible applicant's plan for continuing the activities carried out with the grant, once Federal funding ceases.

''(d) USES OF FUNDS.—Each eligible applicant receiving a grant under this section shall use the grant funds—

''(1) to assist prospective and current teachers by providing—

''(A) scholarships to help prospective teachers pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program;

''(B) support services, if needed, to enable scholarship recipients to complete postsecondary education programs;

''(C) opportunities for teachers who are not highly qualified to become highly qualified through coursework, credentialing courses, or other mechanisms; and

''(D) followup services to former scholarship recipients during such recipients' first 3 years of teaching, including providing mentoring by teachers who receive training and compensation for the teachers' services; or

''(2) to develop and implement effective mechanisms, including financial incentives, to ensure that high-need local educational agencies and high-need schools are able to effectively recruit and retain highly qualified teachers.

''(e) SERVICE REQUIREMENTS.—The Secretary shall establish such requirements as the Secretary finds necessary to ensure that recipients of scholarships under this section who complete teacher preparation programs subsequently teach in a high-need local educational agency, for a period of time equivalent to the period for which the recipients receive scholarship assistance, or repay the amount of the scholarship. The Secretary shall use any such repayments to carry out additional activities under this section.

''(f) RURAL EDUCATION RECRUITMENT AND RETENTION PROGRAM.—

''(1) FINDINGS.—Congress finds that rural school districts face unique challenges in fulfilling the requirement that all teachers be highly qualified, including challenges such as low salaries, geographic and social isolation, housing shortages, poor physical working conditions, a paucity of teacher preparation programs targeted to rural schools, limited opportunities for professional development, and the necessity for teachers to teach more than 1 grade or subject.

''(2) PROGRAM AUTHORIZED.—From amounts made available under section 211(3) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible applicants for the purpose of addressing the teacher recruitment and retention needs of eligible rural school districts and consortia of eligible rural school districts.

''(3) ELIGIBILITY.—In this subsection, the term 'eligible rural school district' means a school district—

''(A) with a total of less than 600 students in average daily attendance at the schools that are served by the district; and

''(B) each of whose schools is designated with a school locale code of 7 or 8.

''(4) APPLICATION.—An eligible applicant that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(5) USE OF FUNDS.—An eligible applicant that receives a grant under this subsection may use the grant funds to address the needs of eligible rural school districts through implementing—

''(A) incentive teacher recruitment strategies, including tuition assistance, student loan forgiveness, housing assistance, a signing bonus, local programs that develop recruitment strategies for secondary school students wanting to return to the community as teachers, and a higher salary or bonus for teaching high-need academic subjects, providing high-need services, or teaching in high-need schools;

''(B) nonincentive teacher recruitment strategies, including advertising, hiring teachers from alternative programs, and recruiting online, from local populations, from the substitute teacher list, or through a State teacher clearinghouse or job bank;

''(C) teacher retention strategies, including mentoring programs for teachers during the teachers' first 3 years of teaching and ongoing opportunities for professional growth and advancement; and

''(D) partnerships with institutions of higher education designed to—

''(i) develop or strengthen a partnership focused on preparing beginning teachers to teach in schools served by eligible rural school districts; or

''(ii) assist teachers who are not highly qualified to become highly qualified teachers through—

''(I) after-school or summer programs;

''(II) electronically delivered education (e-learning), online, and distance learning technologies; and

''(III) flexible programs that enable multiple-subject teachers to become highly qualified teachers.

''SEC. 205. ACADEMIC TEACHING CENTERS.

''(a) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants, on a competitive basis, to eligible applicants to enable such applicants to create academic teaching centers. Academic teaching centers shall—

''(1) promote excellence in the Nation's training of prospective teachers by creating settings for the integration of education and training, research, and evidence-based practice; and

''(2) provide a system of practice-based support at initial levels of preparation, training during the first years of practice, and continued support in maintaining high levels of skill mastery.

''(b) DEFINITIONS.—In this section:

''(1) ELIGIBLE APPLICANT.—

''(A) IN GENERAL.—The term 'eligible applicant' means a consortium composed of each of the following:

''(i) A school of education housed in an institution of higher education.

''(ii) A college or school of arts and sciences within an institution of higher education.

''(iii) Not less than 1 academic unit (such as a department of psychology, a department of educational psychology, or a department of human development) whose faculty focuses on teaching and learning, developmental processes, and the assessment of learning.

''(iv) Not less than 1 local educational agency that serves a qualified school.

''(B) INCLUSIONS.—The term 'eligible applicant' may include an academic unit not described in subparagraph (A)(iii) whose faculty is able to contribute to the work of an academic teaching center.

''(2) QUALIFIED SCHOOL.—The term 'qualified school' means a public elementary school or public secondary school (urban, rural, or suburban), a school district, a campus school, a charter school, or any combination or network of schools, that—

''(A) is home to exemplary teachers who can provide high-quality mentoring and modeling to prospective teachers based on a demonstrated record of student academic achievement; and

''(B) demonstrates a commitment to evidence-based teaching confirmed by professional development offered to staff or by documented experience with university collaborations.

''(c) APPLICATION REQUIREMENTS.—An eligible applicant that desires to receive a grant under this section shall submit to the Secretary an application that demonstrates how the proposed academic teaching center will—

''(1) ensure that prospective teachers will have instruction in, and exposure to, scientific research derived from the social and behavioral sciences and applied to teaching and learning;

''(2) offer prospective teachers skill development opportunities in evidence-based educational interventions;

''(3) include, involve, and utilize faculty from all members of the eligible applicant in modeling the integration of research and practice in the classroom;

''(4) foster real interdisciplinary collaboration and cross-fertilization among and between—

''(A) education faculty;

''(B) prospective and current elementary school and secondary school teachers;

''(C) faculty within an academic unit who focus on teaching and learning, developmental processes, and the assessment of learning, such as faculty from a department of psychology, department of educational psychology, or department of human development; and

''(D) faculty from disciplines within the institution of higher education, including history, English, biology, chemistry, foreign languages, and psychology;

''(5) enhance the ability of faculty in the school of education, college or school of arts and sciences, and the academic unit specified in paragraph (4)(C) to participate more fully in elementary school or secondary school classroom teaching;

''(6) afford novice teaching candidates opportunities for rigorous, closely supervised internships in high-quality teaching settings;

''(7) include mechanisms to assess the quality of teacher preparation at the academic teaching center by the value the center adds to student achievement, as assessed by objective measures of student growth;

''(8) ensure that teachers who have participated in the academic teaching center are highly qualified upon completion of the teachers' degree; and

''(9) apply relevant scientific research on teaching and learning.

''(d) USE OF FUNDS.—An eligible applicant that receives a grant under this section may use the grant funds to carry out any of the following activities:

''(1) PROGRAM DEVELOPMENT, EVALUATION, AND ACCOUNTABILITY.—Funds may be used to—

''(A) develop and refine mechanisms to measure the value added to student academic achievement by evidence-based practice;

''(B) develop and refine mechanisms to measure the value added to student academic achievement by teachers trained in academic teaching centers;

''(C) develop mechanisms to evaluate acquisition of clinical judgment, communication, and problemsolving skills on the part of teacher candidates resulting from participation in an academic teaching center;

''(D) develop professional programs to enhance teacher candidates' communication with students, families, colleagues, and other education professionals; and

''(E) develop mechanisms to observe, evaluate, and reinforce ethical principles though formal instructional efforts.

''(2) CURRICULUM DEVELOPMENT FOR USE IN DEVELOPING TEACHING SKILLS.—Funds may be used to—

''(A) develop interactive teaching materials for the attainment of teaching skills in classroom management; and

''(B) develop interactive materials regarding other teaching skills, such as classroom assessment and individualizing for student abilities and backgrounds, that can be used at other field worksites and in education school courses.

''(3) SUPPORT FOR PARTICIPANTS.—Funds may be used to—

''(A) create and implement evidence-based curricula to be piloted in academic teaching centers;

''(B) provide workload credit for master elementary school or secondary school teachers to serve as adjunct faculty at the academic teaching center; and

''(C) provide workload credit for faculty at the school of education and the college or school of arts and sciences to serve as adjunct faculty at the academic teaching center.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $10,000,000 for fiscal year 2004; and

''(2) such sums as may be necessary for each of the 5 succeeding fiscal years.

''SEC. 206. ADMINISTRATIVE PROVISIONS.

''(a) DURATION; PAYMENTS.—

''(1) DURATION.—

''(A) ELIGIBLE STATES AND ELIGIBLE APPLICANTS.—Grants awarded to eligible States and eligible applicants under sections 202, 204, and 205 shall be awarded for a period not to exceed 3 years. If an eligible State or an eligible applicant receives a grant under any of such sections, such eligible State or eligible applicant may not receive an additional grant under such section during the grant period. After such grant period, such eligible State or such eligible applicant may receive an additional grant under such section.

''(B) ELIGIBLE PARTNERSHIPS.—Grants awarded to eligible partnerships under section 203 shall be awarded for a period of 5 years. If an eligible partnership receives a grant under such section, such eligible partnership may not receive an additional grant under such section during the 5-year grant period. After such grant period, such eligible partnership may receive an additional grant under such section.

''(2) PAYMENTS.—The Secretary shall make annual payments of grant funds awarded under this part.

''(b) PEER REVIEW.—

''(1) PANEL.—The Secretary shall provide the applications submitted under this part to a peer review panel for evaluation and shall ensure that each peer review panel reflects the diversity of educational participants and eligible grantees provided for in sections 202, 203, 204, and 205. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

''(2) PRIORITY.—In recommending applications to the Secretary for funding under this part, the panel shall, with respect to grants under sections 202, 203, and 204, give priority to eligible States and eligible partnerships—

''(A) whose applications involve the development of innovative efforts aimed at reducing the shortage of highly qualified teachers from underrepresented groups, in high-need academic subjects, in high-need services, in high-need rural and urban areas, and in high-need schools;

''(B) whose awards promote an equitable geographic distribution of grants throughout the United States; and

''(C) whose awards promote an equitable geographic distribution of grants among rural and urban areas.

''(3) SECRETARIAL SELECTION.—The Secretary shall determine, based on the peer review process, which applications shall receive funding and the amounts of the grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this part and the types of activities proposed to be carried out.

''(c) MATCHING REQUIREMENTS.—

''(1) STATE GRANTS.—Each State served by an eligible State that receives a grant under section 202 or 204 shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (in cash or in kind) to carry out the activities supported by the grant.

''(2) PARTNERSHIP GRANTS.—Each eligible partnership receiving a grant under section 203 or 204 shall provide, from non-Federal sources (in cash or in kind), an amount equal to 25 percent of the grant for the first year of the grant, 35 percent of the grant for the second year of the grant, and 50 percent of the grant for each succeeding year of the grant.

''(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—An eligible State or eligible partnership that receives a grant under this part may not use more than 2 percent of the grant funds for purposes of administering the grant.

''(e) TEACHER QUALIFICATIONS PROVIDED TO PARENTS UPON REQUEST.—Any local educational agency or school that benefits from the activities assisted under this part shall make available, upon request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the professional qualification of the student's classroom teacher with regard to the subject matter in which the teacher provides instruction. The local educational agency shall inform parents that the parents are entitled to receive the information upon request.

''(f) TECHNICAL ASSISTANCE.—For each fiscal year, the Secretary may expend not more than $500,000 or 0.75 percent of the funds appropriated to carry out this title, whichever amount is greater, to provide technical assistance to entities receiving grants under this part.

''SEC. 207. ACCOUNTABILITY AND EVALUATION.

''(a) STATE GRANT ACCOUNTABILITY REPORT.—An eligible State that receives a grant under section 202 shall submit an annual accountability report to the Secretary. Such report shall include a description of the degree to which the eligible State, in using funds provided under such section, has made substantial progress in meeting the following goals:

''(1) HIGHLY QUALIFIED TEACHERS.—Ensuring that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005–2006 school year, as required under section 1119 of the Elementary and Secondary Education Act of 1965.

''(2) STUDENT ACADEMIC ACHIEVEMENT.—Improving academic achievement for all students.

''(3) RAISING STANDARDS.—Raising the State academic standards required to enter the teaching profession, including, where appropriate, through the use of incentives to incorporate the requirement of an academic major in the subject, or related discipline, in which the teacher plans to teach.

''(4) INITIAL CERTIFICATION OR LICENSURE.—Increasing the pass rate for initial State teacher certification or licensure, or increasing the number of highly competent individuals being certified or licensed as teachers through traditional and alternative programs.

''(5) DECREASING TEACHER SHORTAGES.—Decreasing shortages of qualified teachers from underrepresented groups, in high-need academic subjects, in high-need services, in high-need areas, and in high-need schools.

''(6) INCREASING TEACHER RETENTION.—Increasing teacher retention in the first 3 years of a teacher's career.

''(7) INCREASING OPPORTUNITIES FOR PROFESSIONAL DEVELOPMENT.—Increasing opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified or licensed to teach or in which the teachers are working toward certification or licensure to teach, and that promotes strong teaching skills.

''(8) TECHNOLOGY INTEGRATION.—Increasing the number of teachers trained in the appropriate use of technology as an instructional tool.

''(b) ELIGIBLE PARTNERSHIP EVALUATION.—Each eligible partnership applying for a grant under section 203 shall establish and include in the application submitted under section 203, an evaluation plan that includes strong performance objectives. The plan shall include objectives and measures for—

''(1) increasing the percentage of highly qualified teachers;

''(2) improving academic achievement for all students;

''(3) increasing the pass rate for initial State teacher certification or licensure for individuals from traditional and alternative teacher preparation programs;

''(4) decreasing shortages of highly qualified teachers among underrepresented groups, in high-need academic subjects, in high-need services, in high-need areas, and in high-need schools;

''(5) increasing teacher retention in the first 3 years of a teacher's career;

''(6) increasing opportunities for enhanced and ongoing professional development that enables teachers already in the classroom and teacher educators to upgrade such teachers' and educators' skills and knowledge; and

''(7) increasing the number of teachers trained in the appropriate use of technology as an instructional tool.

''(c) REVOCATION OF GRANT.—

''(1) REPORT.—Each eligible State or eligible partnership receiving a grant under this part shall report annually to the Secretary on the progress of the eligible State or eligible partnership toward meeting the purposes of this part and the goals, objectives, and measures described in subsections (a) and (b).

''(2) REVOCATION.—

''(A) ELIGIBLE STATES AND ELIGIBLE APPLICANTS.—If the Secretary determines that an eligible State or eligible applicant (as defined under section 204 or 205) is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the second year of a grant under this part, then the grant payment shall not be made for the third year of the grant.

''(B) ELIGIBLE PARTNERSHIPS.—If the Secretary determines that an eligible partnership is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the third year of a grant under this part, then the grant payments shall not be made for any succeeding year of the grant.

''(d) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate the activities funded under this part and report the Secretary's findings regarding the activities to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives. The Secretary shall broadly disseminate successful practices developed by eligible States and eligible partnerships under this part, and shall broadly disseminate information regarding such practices that were found to be ineffective.

''SEC. 208. ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.

''(a) HIGH-QUALITY TEACHER PREPARATION PROGRAM.—Each applicant for a grant under this part shall provide assurances that the applicant will provide prospective teachers with the following:

''(1) Knowledge of—

''(A) the arts and sciences;

''(B) the science of teaching and learning;

''(C) research on school impact on student learning; and

''(D) the academic content areas in which the teachers plan to teach.

''(2) Teaching skills that enable the teachers to—

''(A) enhance student academic achievement;

''(B) promote the ability of students to apply knowledge and research findings;

''(C) provide effective instruction in subject matter content;

''(D) implement ongoing assessment of student learning and the use of such assessment for evaluation of curriculum and instructional practices;

''(E) identify and address individual differences in ability and instructional needs;

''(F) address the instructional needs of students with limited-English proficiency and students with disabilities within both the general education and special education curricula;

''(G) employ effective classroom management strategies;

''(H) use technology effectively in the classroom; and

''(I) reflect on practices to improve teaching effectiveness and student learning.

''(3) Opportunities to—

''(A) apply the teachers' knowledge and skills in the classroom;

''(B) collaborate with colleagues, parents, community members, and other educators; and

''(C) work in partnership with parents to advance their children's education.

''(b) STATE REPORT CARD ON THE QUALITY OF TEACHER PREPARATION.—Each State that receives funds under this Act shall provide to the Secretary, on an annual basis and in a uniform and comprehensible manner that conforms with the definitions and reporting methods developed by the State for teacher preparation programs, a State report card on the quality of teacher preparation in the State, which shall include at least the following:

''(1) A description of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State. Such assessments shall—

''(A) be used for purposes for which such assessments are valid and reliable;

''(B) be consistent with relevant, nationally recognized professional and technical standards;

''(C) be aligned with the reporting requirements of this section and section 207; and

''(D) allow for accurate and consistent reporting on teacher preparation programs.

''(2) The standards and criteria that prospective teachers must meet in order to attain initial teacher certification or licensure and to be certified or licensed to teach particular subjects or in particular grades within the State. Such standards and criteria shall incorporate the qualifications specified in subsection (a).

''(3) A description of the extent to which the assessments and requirements described in paragraph (1) are aligned with the State's standards and assessments for students.

''(4) The percentage of prospective teachers who have completed 100 percent of the coursework required by a teacher preparation program at an institution of higher education or alternative certification program and who have taken and passed each of the assessments used by the State for teacher certification and licensure, and the passing score on each assessment that determines whether a candidate has passed that assessment, both of which shall be made available widely and publicly.

''(5) Information on the extent to which teachers in the State are given waivers of State certification or licensure requirements, including the proportion of such teachers distributed across high- and low-poverty school districts and across subject areas.

''(6) A description of each State's alternative routes to teacher certification, if any, and standards and criteria used by the State for certification or licensure, including indicators of teacher candidate skills and academic content knowledge and of evidence of gains in student academic achievement, and the number and percentage of teachers certified through each alternative route who pass State teacher certification or licensure assessments.

''(7) For each State, a description of proposed criteria for assessing the performance of teacher preparation programs in the State, including indicators of candidate academic content knowledge and teaching skills.

''(8) For each teacher preparation program in the State, the number of prospective teachers in the program, the average number of hours of supervised practice teaching required for those in the program, and the number of full-time and part-time faculty, excluding graduate students and clinical supervisors who are not on faculty, and prospective teachers in supervised practice teaching.

''(9) Information on the extent to which teachers or prospective teachers in each State are required to take examinations or other assessments of their subject matter knowledge in the area or areas in which the teachers provide instruction, the standards established for passing any such assessments, and the extent to which teachers or prospective teachers are required to receive a passing score on such assessments in order to teach in specific subject areas or grade levels.

''(10) Information on the data systems developed or expanded by the State under section 202(d)(2), including a description of the systems and an analysis of procedures used by the State regarding such systems.

''(11) Information on pilot studies conducted under section 202(d)(1)(B)(iii), if applicable, including a list of teacher preparation programs (including alternative routes to certification) that participated in such studies, the procedures used to provide evidence that graduates of teacher preparation programs (including those who complete alternative routes to certification) are effective at improving student achievement, and other findings relevant to the impact of teacher preparation programs on student achievement.

''(c) REPORT OF THE SECRETARY ON THE QUALITY OF TEACHER PREPARATION.—

''(1) REPORT CARD.—The Secretary shall provide to Congress, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in paragraphs (1) through (11) of subsection (b). Such report shall identify States for which eligible States and eligible partnerships received a grant under this part. Such report shall be so provided, published, and made available annually.

''(2) REPORT TO CONGRESS.—The Secretary shall report to Congress—

''(A) a comparison of States' efforts to improve teaching quality;

''(B) regarding the national mean and median scores on any standardized test that is used in more than 1 State for teacher certification or licensure;

''(C) a description of data systems developed or expanded by States pursuant to section 202(d)(2) and an analysis of procedures used in different States regarding such systems; and

''(D) a description of pilot studies undertaken by States pursuant to section 202(d)(1)(B)(iii) and an analysis of procedures used in different States regarding such studies.

''(3) SPECIAL RULE.—In the case of teacher preparation programs with fewer than 10 prospective teachers who have completed 100 percent of the coursework required by a teacher preparation program taking any single initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-year period.

''(4) DATABASE.—The Secretary shall collect data and develop a national and public database that provides reports on States' passage rates on certification and licensure assessments, the placement rates for teacher preparation programs, the percentage of full-time faculty in institutions of higher education in each State who teach classes offered by a school, college, or department of education, the tracking of graduates 5 years after graduating from a teacher preparation program, and other relevant information, as appropriate.

''(d) COORDINATION.—The Secretary, to the extent practicable, shall coordinate the information collected and published under this

part among States for individuals who took State teacher certification or licensure assessments in a State other than the State in which the individual received the individual's most recent degree.

''(e) INSTITUTIONAL AND PROGRAM REPORT CARDS ON QUALITY OF TEACHER PREPARATION.—

''(1) REPORT CARD.—Each institution of higher education or alternative certification program that conducts a teacher preparation program that enrolls prospective teachers receiving Federal assistance under this Act shall report annually to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and reporting methods developed by the State for teacher preparation programs, the following information:

''(A) PASS RATE.—(i) For the most recent year for which the information is available, the pass rate for each prospective teacher who has completed 100 percent of the coursework required by the teacher preparation program on the teacher certification or licensure assessments of the State in which the institution or alternative certification program is located, but only for those prospective teachers who took those assessments within 3 years of completing the coursework.

''(ii) A comparison of the institution's or alternative certification program's pass rate for prospective teachers who have completed 100 percent of the coursework at the teacher preparation program with the average pass rate for institutions and alternative certification programs in the State.

''(iii) In the case of teacher preparation programs with fewer than 10 graduates who have completed 100 percent of the coursework required by the program taking any single initial teacher certification or licensure assessment during an academic year, the institution or alternative certification program shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-year period.

''(B) PROGRAM INFORMATION.—The number of prospective teachers in the program, the average number of hours of supervised practice teaching required for those in the program, and the number of full-time equivalent faculty and prospective teachers in supervised practice teaching.

''(C) STATEMENT.—In States that require approval or accreditation of teacher education programs, a statement of whether the institution's teacher preparation program or alternative certification program's teacher preparation program is so approved or accredited, by the State and any other entities, as applicable.

''(D) DESIGNATION AS LOW-PERFORMING.—Whether the program has been designated as low-performing by the State under section 209(a).

''(2) REQUIREMENT.—The information described in paragraph (1) shall be reported through publications such as school catalogs and promotional materials sent to potential applicants, secondary school guidance counselors, and prospective employers of the institution's or alternative certification program's teacher preparation program graduates, including materials sent by electronic means.

''(3) FINES.—In addition to the actions authorized in section 487(c), the Secretary may impose a fine not to exceed $25,000 on an institution of higher education or an alternative certification program for failure to provide the information described in this subsection in a timely or accurate manner.

''(f) DATA QUALITY.—The eligible State shall attest annually, in writing, as to the reliability, validity, integrity, and accuracy of the data submitted pursuant to this section.

''(g) NATIONAL ACADEMY OF SCIENCES CORE CURRICULUM STUDY.—

''(1) IN GENERAL.—The Secretary shall seek to enter into a contract with the National Academy of Sciences to conduct a 2-year study to develop a suggested core curriculum for States to use as guidance when developing their program standards for teacher preparation programs in their State. The core curriculum shall address the pedagogical requirements of teacher preparation programs and assist those within the education profession and prospective teachers to understand what prospective teachers need to know to become effective teachers.

''(2) DOMAINS OF FOUNDATIONAL AND PEDAGOGICAL KNOWLEDGE.—The study conducted pursuant to paragraph (1) shall include each of the following domains of foundational and pedagogical knowledge:

''(A) Learning, which would include building on existing knowledge and experience shaped by social and cultural context in the community and in the classroom.

''(B) Human development, which would include how children and adolescents think and behave, taking in account different ages, contexts, and learning styles.

''(C) Assessment, which would include the introduction of standards-based reform.

''(D) Teaching skills, which would include providing all teachers with the tools needed to be successful in the classroom and to meet the instructional needs of students with disabilities and students with limited-English proficiency.

''(E) Reading instruction, which would include taking in account different ages, contexts, and learning styles.

''(3) BEST RESEARCH; SUGGESTED TRAINING.—The suggested core curriculum developed pursuant to paragraph (1) shall—

''(A) reflect the best research into how students learn, on content-specific methods shown to be effective with students, and on effective gap-closing criteria; and

''(B) include preparation in working with diverse populations, interacting with parents, assessing classroom performance, and managing student behavior.

''(4) COLLABORATION.—

''(A) IN GENERAL.—In conducting the study under paragraph (1), the National Academy of Sciences shall collaborate with interested parties in developing the suggested core curriculum.

''(B) INTERESTED PARTIES.—In this paragraph, the term 'interested parties' means—

''(i) college presidents;

''(ii) deans of teacher education programs;

''(iii) teacher preparation faculty;

''(iv) chief State school officers;

''(v) school superintendents;

''(vi) teacher organizations;

''(vii) exemplary teachers;

''(viii) teacher preparation accrediting organizations;

''(ix) nonprofit education organizations;

''(x) organizations or associations representing the scientific disciplines associated with teaching and learning; and

''(xi) other entities determined appropriate by the National Academy of Sciences.

''SEC. 209. STATE FUNCTIONS.

''(a) STATE ASSESSMENT.—In order to receive funds under this Act, a State shall develop a procedure to identify, and assist, through the provision of technical assistance, low-performing programs of teacher preparation within institutions of higher education. Such State shall provide the Secretary an annual list of such low-performing institutions that includes an identification of those institutions at-risk of being placed on such list. Such levels of performance shall be determined solely by the State and may include criteria based upon information collected pursuant to this part. Such assessment shall be described in the report under section 208(b).

''(b) TERMINATION OF ELIGIBILITY.—Any institution of higher education that offers a program of teacher preparation in which the State has withdrawn the State's approval or terminated the State's financial support due to the low performance of the institution's teacher preparation program based upon the State assessment described in subsection (a)—

''(1) shall be ineligible for any funding for professional development activities awarded by the Department of Education;

''(2) shall not be permitted to accept or enroll any prospective teacher who receives aid under title IV of this Act in the institution's teacher preparation program; and

''(3) shall provide transitional support, including remedial services if necessary, for prospective teachers enrolled at the institution at the time of termination of financial support or withdrawal of approval.

''(c) NEGOTIATED RULEMAKING.—The Secretary shall engage in a negotiated rulemaking process with representatives of States, institutions of higher education, and educational and student organizations when developing regulations to carry out subsection (b)(2).

''SEC. 210. GENERAL PROVISIONS.

''(a) METHODS.—In complying with sections 208 and 209, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods in reporting and that the reporting methods protect the privacy of individuals.

''(b) SPECIAL RULE.—For each State in which there are no State certification or licensure assessments, or for States that do not set minimum performance levels on those assessments—

''(1) the Secretary shall, to the extent practicable, collect data comparable to the data required under this part from States, local educational agencies, institutions of higher education, or other entities that administer such assessments to teachers or prospective teachers; and

''(2) notwithstanding any other provision of this part, the Secretary shall use such data to carry out requirements of this part related to assessments or pass rates.

''(c) NATIONAL SYSTEM OF TEACHER CERTIFICATION PROHIBITED.—Nothing in this part shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification.

''(d) RELEASE OF INFORMATION TO TEACHER PREPARATION PROGRAMS.—

''(1) IN GENERAL.—For the purpose of improving teacher preparation programs, a State educational agency shall provide to a teacher preparation program, upon the request of the teacher preparation program, any and all pertinent education-related information that—

''(A) may enable the teacher preparation program to evaluate the effectiveness of the program's graduates or the program itself; and

''(B) is possessed, controlled, or accessible by the State educational agency.

''(2) CONTENT OF INFORMATION.—The information described in paragraph (1)—

''(A) shall include an identification of specific individuals who graduated from the teacher preparation program to enable the teacher preparation program to evaluate the information provided to the program from the State educational agency with the program's own data about the specific courses taken by, and field experiences of, the individual graduates; and

''(B) may include—

''(i) kindergarten through grade 12 academic achievement and demographic data, without individual identifying information, for students who have been taught by graduates of the teacher preparation program; and

''(ii) teacher effectiveness evaluations for teachers who graduated from the teacher preparation program.

''(3) PRIVACY.—Actions taken pursuant to paragraph (1) shall not be considered a violation of section 444 of the General Education Provisions Act or of the individual's privacy pursuant to any other provision of law. Any information obtained by a teacher preparation program in accordance with this section shall be considered a part of the graduate's education records and shall be protected as such.

''SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $500,000,000 for fiscal year 2004 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

''(1) 20 percent shall be available for each fiscal year to award grants under section 202;

''(2) 60 percent shall be available for each fiscal year to award grants under section 203; and

''(3) 20 percent shall be available for each fiscal year to award grants under section 204.''.

(b) PREPARING TOMORROW'S TEACHERS TO USE TECHNOLOGY.—Part B of title II of the Higher Education Act of 1965 (20 U.S.C. 1041 et seq.) is amended to read as follows:

''PART B—PREPARING TOMORROW'S TEACHERS TO USE TECHNOLOGY

''SEC. 221. PURPOSE AND PROGRAM AUTHORITY.

''(a) PURPOSE.—It is the purpose of this part to assist consortia of public and private entities—

''(1) to carry out programs that prepare prospective teachers to use advanced technology to prepare all students to meet challenging State and local academic content and student academic achievement standards; and

''(2) to improve the ability of institutions of higher education to carry out such programs.

''(b) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—The Secretary is authorized to award grants to eligible applicants, or enter into contracts or cooperative agreements with eligible applicants, on a competitive basis in order to pay for the Federal share of the cost of projects to develop or redesign teacher preparation programs to enable prospective teachers to use advanced technology effectively in their classrooms.

''(2) DISTRIBUTION.—In awarding grants, or entering into contracts or cooperative agreements under this part, the Secretary shall ensure an equitable distribution of financial assistance among eligible applicants located in urban and rural areas of the United States.

''(3) PERIOD OF AWARDS.—The Secretary may award grants, or enter into contracts or cooperative agreements, under this part for periods that are not more than 5 years in duration.

''SEC. 222. ELIGIBILITY.

''(a) ELIGIBLE APPLICANTS.—In order to receive a grant or enter into a contract or cooperative agreement under this part, an applicant shall be a consortium that includes the following:

''(1) At least 1 institution of higher education that awards baccalaureate degrees and prepares teachers for their initial entry into teaching.

''(2) At least 1 State educational agency or local educational agency.

''(3) One or more of the following entities:

''(A) An institution of higher education (other than the institution described in paragraph (1)).

''(B) A school or department of education at an institution of higher education.

''(C) A school or college of arts and sciences (as defined in section 201) at an institution of higher education.

''(D) A professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity, with the capacity to contribute to the technology-related reform of teacher preparation programs.

''(b) APPLICATION REQUIREMENTS.—In order to receive a grant or enter into a contract or cooperative agreement under this part, an eligible applicant shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include the following:

''(1) A description of the proposed project, including how the project would—

''(A) ensure that individuals participating in the project would be prepared to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

''(B) improve the ability of at least 1 participating institution of higher education described in section 222(a)(1) to ensure such preparation.

''(2) A demonstration of—

''(A) the commitment, including the financial commitment, of each of the members of the consortium for the proposed project; and

''(B) the active support of the leadership of each organization that is a member of the consortium for the proposed project.

''(3) A description of how each member of the consortium will participate in project activities.

''(4) A description of how the proposed project will be continued after Federal funds are no longer awarded under this part for the project.

''(5) A plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

''(c) MATCHING REQUIREMENTS.—

''(1) IN GENERAL.—The Federal share of the cost of any project funded under this part shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of the cost of such project may be provided in cash or in kind, fairly evaluated, including services.

''(2) ACQUISITION OF EQUIPMENT.—Not more than 10 percent of the funds awarded for a project under this part may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be provided in cash.

''SEC. 223. USE OF FUNDS.

''(a) REQUIRED USES.—A consortium that receives a grant or enters into a contract or cooperative agreement under this part shall use funds made available under this part for—

''(1) a project creating 1 or more programs that prepare prospective teachers to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

''(2) evaluating the effectiveness of the project.

''(b) PERMISSIBLE USES.—The consortium may use funds made available under this part for a project, described in the application submitted by the consortium under this part, that carries out the purpose of this part, such as the following:

''(1) Developing and implementing high-quality teacher preparation programs that enable educators—

''(A) to learn the full range of resources that can be accessed through the use of technology;

''(B) to integrate a variety of technologies into curricula and instruction in order to expand students' knowledge;

''(C) to evaluate educational technologies and their potential for use in instruction;

''(D) to help students develop their technical skills; and

''(E) to use technology to collect, manage, and analyze data to improve teaching, learning, and decisionmaking for the purpose of increasing student academic achievement.

''(2) Developing and implementing high-quality teacher preparation programs that prepare educators in—

''(A) the uses and application of technology, including universally designed technologies, assistive technology devices, and assistive technology services; and

''(B) maximizing access for students with disabilities to participate in the general education curriculum through the use of such technology.

''(3) Developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators.

''(4) Developing achievement-based standards and assessments aligned with the standards to measure the capacity of prospective teachers to use technology effectively in their classrooms.

''(5) Providing technical assistance to entities carrying out other teacher preparation programs.

''(6) Developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms.

''(7) Subject to section 222(c)(2), acquiring technology equipment, networking capabilities, infrastructure, software, and digital curricula to carry out the project.

''SEC. 224. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part—

''(1) $200,000,000 for fiscal year 2004; and

''(2) such sums as may be necessary for each of the 5 succeeding fiscal years.''.

(c) CENTERS OF EXCELLENCE.—

(1) IN GENERAL.—Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended by adding at the end the following:

''PART C—CENTERS OF EXCELLENCE

''SEC. 231. PURPOSES; DEFINITIONS.

''(a) PURPOSES.—The purposes of this part are—

''(1) to help recruit, prepare, and retain teachers, including minority teachers, to meet the national demand for a highly qualified teacher in every classroom;

''(2) to help recruit, prepare, and retain principals (including minority principals and assistant principals) to address the shortage of principals in our Nation's public elementary schools and secondary schools; and

''(3) to increase opportunities for Americans of all educational, ethnic, class, and geographic backgrounds to become highly qualified teachers and principals.

''(b) DEFINITIONS.—In this part:

''(1) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

''(A) an institution of higher education—

''(i) that has a teacher preparation program that meets the requirements of such a program under section 203(b)(2);

''(ii) that is—

''(I) a part B institution (as defined in section 322);

''(II) a Hispanic-serving institution (as defined in section 502);

''(III) a Tribal College or University (as defined in section 316);

''(IV) an Alaska Native-serving institution (as defined in section 317);

''(V) a Native Hawaiian-serving institution (as defined in section 317); or

''(VI) an institution determined by the Secretary to have enrolled a substantial number of minority, low-income students during the previous academic year who received assistance under subpart 1 of part A of title IV for that year; and

''(iii) that has not received a grant under this part during the 5-year period preceding the date the institution applies for a grant under this part;

''(B) a consortium of institutions described in subparagraph (A); or

''(C) an institution described in subparagraph (A), or a consortium described in subparagraph (B), in partnership with any other institution of higher education, but only if the center of excellence established under section 232 is located at an institution described in subparagraph (A).

''(2) HIGHLY QUALIFIED.—The term 'highly qualified' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(3) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(4) TEACHING SKILLS.—The term 'teaching skills' means skills—

''(A) grounded in the science of teaching and learning that teachers use to create effective instruction in subject matter content and that lead to student achievement and the ability to apply knowledge; and

''(B) that require an understanding of the learning process itself, including an understanding of—

''(i) the use of strategies specific to the subject matter;

''(ii) ongoing assessment of student learning and the use of such assessment for evaluation of curriculum and instructional practices;

''(iii) identification of individual differences in ability and instructional needs;

''(iv) the use of strategies that will meet the instructional needs of students with disabilities and students with limited-English proficiency;

''(v) classroom management; and

''(vi) interaction with parents and others to promote student learning.

''SEC. 232. CENTERS OF EXCELLENCE.

''(a) PROGRAM AUTHORIZED.—From the amounts appropriated to carry out this part, the Secretary shall award competitive grants to eligible institutions to establish centers of excellence.

''(b) APPLICATION.—Any eligible institution desiring a grant under this part shall submit an application to the Secretary at such a time, in such a manner, and accompanied by such information the Secretary may require.

''(c) USE OF FUNDS.—

''(1) REQUIRED USES.—An eligible institution that receives a grant under this part shall use the grant funds to establish a center of excellence that shall ensure that current and future teachers are highly qualified, by carrying out 1 or more of the following activities:

''(A) Implementing reforms within teacher preparation programs to ensure that such programs are preparing teachers who are highly qualified, are able to understand scientifically based research, and are able to use advanced technology effectively in the classroom, including use of instructional techniques to improve student academic achievement, by—

''(i) developing and implementing programs that enhance the competencies of faculty to reflect advances in theory, research, and practice; and

''(ii) designing or redesigning teacher preparation programs that—

''(I) prepare teachers to close student achievement gaps;

''(II) prepare teachers to utilize scientifically based research and rigorous academic content and to teach rigorous academic content and challenging State academic content standards; and

''(III) promote strong teaching skills.

''(B) Providing sustained and high-quality preservice clinical experience, including the mentoring of prospective teachers and principals by exemplary teachers and principals, respectively; substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools; providing support, including preparation time, for such interaction.

''(C) Developing and implementing initiatives to promote retention of highly qualified teachers and principals, particularly minority teachers and principals, including programs that provide—

''(i) teacher or principal mentoring from exemplary teachers or principals, respectively; or

''(ii) induction and support for teachers and principals during their first 3 years of employment as teachers or principals, respectively.

''(2) PERMISSIBLE USES.—An eligible institution that receives a grant under this part may use a portion of the grant funds to carry out 1 or more of the following activities:

''(A) Awarding scholarships based on financial need to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program or principal preparation program.

''(B) Disseminating information on effective practices for teacher preparation and induction and successful teacher certification and licensure assessment preparation strategies.

''(C) Disseminating information on effective practices for principal preparation, successful principal certification and licensure preparation strategies, and successful principal induction.

''(D) Activities authorized under sections 202, 203, and 204.

''(d) MINIMUM GRANT AMOUNT.—The minimum amount of each grant under this part shall be $500,000.

''(e) DURATION.—Grants awarded under this part shall be for a period of 3 years.

''(f) DISBURSEMENT.—An eligible institution that receives a grant under this part shall receive—

''(1) 60 percent of the grant award during the first year of the grant period;

''(2) 25 percent of the grant award during the second year of the grant period; and

''(3) 15 percent of the grant award during the third year of the grant period.

''(g) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—Each eligible institution that receives a grant under this part shall provide matching funds, from non-Federal sources that may be in cash or in the form of in-kind contributions, in an amount equal to—

''(A) 25 percent of the grant award for the first year of the grant;

''(B) 35 percent of the grant award for the second year of the grant; and

''(C) 50 percent of the grant award for the third year of the grant.

''(2) WAIVER.—The Secretary may waive the matching requirement under paragraph (1) for an eligible institution if the Secretary determines, based on regulations promulgated by the Secretary, that such requirement would be a financial burden for such institution.

''(h) LIMITATION ON ADMINISTRATIVE EXPENSES.—An eligible institution that receives a grant under this part may use not more than 2 percent of the grant funds for purposes of administering the grant.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this part.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part—

''(1) $10,000,000 for fiscal year 2004; and

''(2) such sums as may be necessary for each of the 5 succeeding fiscal years.''.

(2) TRANSITION.—The Secretary of Education shall take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of this subsection.

THE CAPACITY TO LEARN FOR ALL STUDENTS AND SCHOOLS (CLASS) ACT OF 2004

Senator Bingaman's CLASS Act is designed to strengthen the Teacher Quality Enhancement Grants program of the Higher Education Act by expanding the capacity of teachers and schools to offer all students the quality of instruction they need and deserve.

What will the CLASS Act accomplish? This capacity-enhancing act will:

Ensure that all teachers are highly qualified, have strong teaching skills, understand scientifically based research and its applicability, and can use technology effectively in the classroom.

Empower teachers and schools to provide access for all students to a high-quality general education curriculum, including students with disabilities and limited-English proficiency.

Better prepare students for postsecondary education and a competitive workforce.

Enhance the ability of schools, districts, and states to collect, analyze, and utilize data to improve schools and programs and to fulfill the requirements of No Child Left Behind and the Higher Education Act.

How will the CLASS Act accomplish these goals? The CLASS Act provides the following capacity-building resources:

Data systems designed to improve public education, including enhancing teacher preparation programs. State educational agencies can apply for new Data Systems Grants that enable them to develop data systems that have the capacity to integrate and coordinate individual student data from educational and employment settings; to conduct analyses necessary for evaluating programs and policies and identifying best practices; and to facilitate alignment among schools, institutions of higher education, and employment settings.

Academic Teaching Centers that feature a model teaching laboratory: a setting for the integration of education and training, research, and evidence-based practice for teacher candidates, university professors, and master teachers.

A Professional Development Program that encourages innovation by allowing states to pursue alignment with National Board for Professional Teaching Standards, a tiered licensure system, multiple career paths, and opportunities for professional growth.

A Rural Education Recruitment and Retention Program designed to address the needs of rural districts by funding a range of recruitment strategies, such as tuition and housing assistance, and retention strategies, such as mentoring programs and professional development.

Centers of Excellence that will increase minority teacher recruitment, development, and retention.

Rigorous standards for teacher certification or licensure to ensure that all prospective teachers meet the same high state standards.

Strengthened accountability through improved assessment procedures for teacher certification or licensure that are valid and reliable, are aligned with reporting requirements, and allow for accurate and consisting reporting.

A state-level needs assessment to identify areas of greatest need and to ensure the effective use of federal funds.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Mr. DURBIN):

S. 2341. A bill to amend the Health Care Quality Improvement Act of 1986 to expand the National Practitioner Data Bank; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Safe Healthcare Reporting (SHARE) Act, which Senator LAUTENBERG and I have developed to add nurses and other licensed health care professionals to the National Practitioner Databank.

In 1986, Congress passed legislation that established a national databank, the National Practitioner Databank (NPDB), to track licensing, disciplinary, and medical malpractice actions taken against U.S. physicians. While the NPDB has served as an important source of information on physicians, it fails to incorporate critical information on millions of non-physician licensed health care professionals, including nurses.

The recent case of Charles Cullen, a New Jersey nurse who has claimed responsibility for as many as 40 murders carried out at multiple hospitals in New Jersey and Pennsylvania over the last decade, has highlighted the need for a national reporting system on nurses and other licensed health professionals. As the health care workforce becomes increasingly mobile, such a system would be an invaluable resource to health care employers seeking information on potential employees.

The SHARE Act will help break the chain of silence currently plaguing our health care system. This chain of silence prevented critical employment history on Cullen—including five firings and at least one suspension—from ever reaching his future employers. While Charles Cullen kept killing people, hospitals kept hiring him. They didn't know his history. They didn't understand the risk he posed to patients. This is because hospitals and other employers are reluctant to share employee information because they are afraid of being sued.

The goal of our legislation is to make sure that hospitals know—to make sure that employers have access to critical information on health care practitioners. It will ensure that adverse employment actions, licensing and disciplinary actions, and criminal background information are available to all health care employers. The SHARE Act mandates that hospitals and other health care entities report adverse employment actions taken against employees who violate professional standards of conduct. This would include things like drug diversion and falsification of documents.

Importantly, the legislation protects health care employers from suit when they, in good faith, report information that they believe is truthful. Any employer who reports false information in an effort to smear a nurse's record would receive no protection under our bill. In fact, anyone who abused the information reported to the databank would be fined by the Federal Government.

Health care employers, such as hospitals and nursing homes, would be required to report to the National Practitioner Databank, which currently provides such information on physicians. They would also be required to report to the appropriate state licensing board. In turn the State licensing board would report the results of its investigations and licensing or disciplinary actions to the databank. The legislation also encourages nurses and other health care professionals to report suspected activities to state boards by providing whistleblower protections to those individuals.

The SHARE Act also ensures that a practitioner who is subject to reporting is informed of the report, offered a hearing on the issue, and allowed to comment on the report.

I believe that this legislation is a critical first step toward improving access to important information on our health care workforce. Since 1986, the Federal Government has required hospitals to report employment information on physicians. It's time we include nurses and other health care professionals that provide direct patient care. In fact, the average nurse spends more time at a patient's bedside than the patient's physician. We simply must ensure that the person at the bedside is competent and professional.

I look forward to working with my colleagues on both sides of the aisle to move this bill through Congress and get it to the President's desk. We must and we can improve patient safety and the integrity of our health care system. This bill takes an important step toward that goal.

Mr. LAUTENBERG. Mr. President, I rise to join my colleague, Senator CORZINE, in introducing the Safe Healthcare Reporting (SHARE) Act.

The first rule of the medical profession is ''do no harm.'' Unfortunately, Charles Cullen spent his career doing harm to people in New Jersey and Pennsylvania.

The overwhelming majority of nurses are excellent practitioners of medicine who save countless lives every day. Nurse Cullen is the exception—not the rule—he was a bad apple of the worst kind.

As many as 40 people died as a result of Charles Cullen's actions. He did it at different hospitals in different States. But no one put the pieces of the puzzle together for decades.

That is why the legislation Senator CORZINE and I are introducing is so important. This legislation adds nurses to the centralized, national data bank of medical errors and misconduct. Our bill will require hospitals to notify state nursing boards—and the national data bank—if they launch an investigation into an employee—something Senator CORZINE and I believe is badly needed. The bill also requires hospitals to reference the national database when hiring nurses and other licensed health care professinals.

We must prevent more people like Charles Cullen from becoming nurses in the future. The vast majority of nurses out there are dedicated professionals, but we need a way to track and monitor the few who are using the profession as a means to commit terrible crimes. It makes no sense to allow a medical professional to go from job to job, leaving under suspicious circumstances, with virtually no means of detection.

Cullen's ability to perpetrate such despicable acts against patients highlights serious flaws in our current system. The system let this man slip through the cracks and continue to work as a professional healthcare provider even as investigations of his killings at previous employers were being launched. This is appalling.

Patient safety must always be at the forefront. Our bill will close the holes in this system and make it harder for people like Charles Cullen to commit such horrific crimes in the future.

I look forward to working in a bi-partisan fashion to further this important legislation.

By Mr. WARNER:

S. 2342. A bill to designate additional National Forest System lands in the State of Virginia as wilderness, to establish the Seng Mountain and Crawfish Valley Scenic Areas, to provide for the development of trail plans for the wilderness areas and scenic areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. WARNER. Mr. President, I rise today to introduce an important piece of legislation for my State, the Virginia Ridge and Valley Wilderness and National Scenic Areas Act of 2004. This bill will add four new wilderness areas, five additions to existing wilderness areas, and two National Scenic Areas to the Jefferson National Forest. Congressman RICK BOUCHER is introducing companion legislation in the United States House of Representatives.

It is no coincidence that I introduce this legislation on Earth Day, a time when we can reflect on our natural world and the obligations we have to protect the earth which provides so richly for us. Throughout my career in the United States Senate, I have strived to preserve Virginia's natural resources and heritage through the designation of wilderness areas. In fact, I have worked to pass three wilderness bills through Congress. I stood here not four years ago and introduced a bill that added two exceptional areas in the George Washington National Forest to the wilderness system. With the help of many, that legislation is now law, and Virginia has approximately 100,434 acres of designated wilderness lands.

However, there is still work to be done. Within the Jefferson National Forest, designated wilderness areas total only 7 percent of the total forest acreage. The enactment of this legislation will substantially increase our opportunities for uninterrupted enjoyment in the forest with the addition of nearly 29,000 acres of new wilderness areas and almost 12,000 acres of national scenic areas.

Virginia is blessed with great beauty and natural diversity. From the complex ecosystem of the Chesapeake Bay, to the exquisite vistas, streams, vegetation, and wildlife of the Shenandoah Mountains, residents and visitors alike can enjoy a bountiful array of natural treasures. As demand for development in Virginia increases, it becomes incumbent upon Congress to act expeditiously to protect these wild lands. Through wilderness and national scenic area designations, we can ensure that these areas retain their primeval character and influences.

I consider myself an avid outdoorsman, and I enjoy opportunities for recreation. I want to stress the many activities that will continue to occur in these wilderness areas, including: hunting, fishing, hiking, camping, canoeing, and horseback riding, to name a few. In addition, the Wilderness Act is flexible and provides for reasonable local forest management and emergency services in wilderness areas, such as the use of motorized equipment and aircraft for search and rescue operations; or to combat fire, insects and disease.

I am particularly pleased to include in the legislation an authorization for the establishment of a non-motorized trail between County Route 650 and Forest Development Road 4018 outside of the new Raccoon Branch Wilderness area. This trail will follow the historic Rye Valley Railroad Grade and will be a popular route for mountain bikers, equestrians and hikers. In addition, this bill directs the Forest Service to develop trail plans for the wilderness and national scenic areas.

As a father and a grandfather, I feel a weighty obligation to ensure that our children have lasting opportunities to enjoy Virginia's immense natural beauty and diversity. This legislation is a crucial step in our quest to preserve these lovely areas for the enjoyment and use of future generations.

By Mr. CONRAD (for himself and Mrs. LINCOLN):

S. 2343. A bill to amend title XVIII of the Social Security Act to improve the medicare program, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, today, I am being joined by Senator BLANCHE LINCOLN in introducing the Medicare Prescription Drug Improvement Act (MEND) of 2004, which aims to make various improvements to the recently enacted Medicare Prescription Drug, Modernization, and Improvement Act of 2003 (H.R. 1).

I said when we passed H.R. 1 that we could do better for seniors and that I would keep pushing to improve the Medicare drug bill. This bill is an important first step in that effort. It provides a better, more stable prescription drug benefit and lowers the costs of drugs for seniors. It also removes the giveaways to health plans and it will reduce the deficit. In short, this bill is a win for seniors, a win for good government, and a win for taxpayers.

I supported the new Medicare law, but this was not an easy decision. While this legislation takes important steps to add a drug benefit to the Medicare program and makes needed provider payment reforms, this legislation has many flaws that must be addressed. The legislation I am unveiling today takes steps in this direction.

Before I describe this new effort, I'd first like to highlight why I believe supporting the Medicare bill was the right decision, particularly for Medicare beneficiaries in my home State of North Dakota.

The first—and most basic—reason I supported this legislation is because it takes critical steps to add a drug benefit to the Medicare program. This benefit will provide America's seniors—for the first time—the opportunity to receive help with their medication costs. If seniors are satisfied with their current health care coverage, they do not have to sign up for this new benefit. But if they need extra help covering their prescription costs, the new Medicare drug benefit offers an important coverage option.

The second major reason I supported this legislation is because it provides a very generous benefit for lower-income seniors with incomes below 150 percent of the Federal poverty. Under the legislation, about 40 percent of seniors in North Dakota will get the vast majority of their drugs covered, with minimal out-of-pocket costs. This extra assistance will make a critical difference to lower-income seniors in my State, many of whom have told me that they are often faced with the choice of paying for their medicines or paying for food, rent and other living costs. In my view, this is a choice that no senior citizen should be forced to make. The legislation we passed took important steps to address this problem.

In addition, the Medicare drug benefit will provide substantial assistance to those with catastrophic drug costs. Specifically, after a beneficiary spends $3,600 out-of-pocket, Medicare will pick up 95 percent of the cost. This catastrophic coverage is an important component of the bill, which we estimate will help nearly 11 percent of North Dakota seniors better afford high-cost medications.

As we move forward on implementing this new benefit, it is my strong hope that it will improve health care coverage for the millions of seniors across the Nation who are struggling to afford life-saving and life-enhancing medications.

Finally, another major reason that I supported the Medicare bill is that it includes a whole host of rural provider payment reforms that I authored along with Senator CRAIG THOMAS from Wyoming and Representative EARL POMEROY from my State of North Dakota. These measures take important steps to address payment disparities that were causing rural health care providers to receive significantly less reimbursement than their urban counterparts. Over the next 10 years, these payment changes will improve funding to the rural health care system by more than $20 billion. It is my hope that these important provisions will help ensure health care providers can continue offering quality and affordable health care services to rural communities in my State and across the Nation.

Those are positive aspects of the recently enacted Medicare legislation. But, as I said when we passed it, the bill also had a number of significant flaws. The bill I am introducing today addresses these flaws and makes some important improvements to the new Medicare law.

To be clear, my new legislation does not include every change I would like to make to the Medicare law. To do that, we would need to spend hundreds of billions of dollars. Given the Federal budget deficit we are facing, this is simply not possible.

But it is possible to make some common-sense improvements to the bill. And that is what my legislation does. Let me describe it in further detail.

The first area of my bill will include new measures to reduce the costs of prescription drugs. We know that drug costs have skyrocketed over the last few years. This is a real problem for seniors and others across the Nation who are having increasing trouble affording their medications.

It is also a problem for the Medicare program, which will face increasing cost pressures when we add the new drug benefit. Given this situation, we must take steps to reduce and control drug costs. My legislation would do that in two ways.

First, it would allow pharmacists and licensed wholesalers to reimport less expensive drugs from Canada. The Medicare bill gives the Department of

Health and Human Services authority to allow this reimportation, but it put roadblocks in place that will effectively ensure reimportation never happens.

My bill would remove these roadblocks and allow reimportation to begin immediately. If at any time a reimported drug is found to be unsafe, the Secretary would have authority to immediately suspend reimportation of this product.

The second thing my bill would do to reduce costs is to allow the Secretary of HHS to negotiate with drug companies to lower the costs of medications in the new drug benefit.

As my colleagues know, the Medicare law specifically prohibits the Secretary from directly negotiating with pharmaceutical companies to lower drug prices. We know that allowing the government to negotiate in other programs, like the VA, has significantly lowered costs. There's no reason we shouldn't also allow it in the new Medicare drug benefit.

In addition to taking steps to reduce drug costs, my legislation also includes measures to improve the stability of the Medicare drug benefit.

Under the new Medicare benefit, I am concerned that seniors may face different drug costs, different drug formularies, and different approved pharmacies as they switch from plan-to-plan every year. If we know anything, we know that seniors want certainty.

One way to fix this is to allow seniors to stay in the drug plan of their choice for more than 1 year—even if it is a ''government fallback plan.'' My legislation includes this change.

Another shortfall of the new Medicare law is that it prohibits seniors from purchasing supplemental insurance to assist with costs not covered by the new benefit. My legislation would lift this restriction and give seniors another choice for covering their medication costs.

Beyond that, my legislation also includes new measures to ensure seniors retain access to the local pharmacy of their choice. In many communities, the local pharmacist is the most accessible source of health care services. Given this, my bill contains measures to protect local pharmacy services.

Specifically, it would require that the Medicare program allow seniors to go to their local pharmacy to get their prescriptions filled, rather than forcing them to receive their drugs by mail-order or forcing them to go to a pharmacy in a nursing home or hospital that may not be as accessible. My hope is that this provision would ensure that seniors can continue to visit their local pharmacist.

My legislation would also authorize $500 million that could be used to help pharmacists cover the costs of educating seniors about the new drug plan choices. This funding would provide pharmacists a one-time payment for providing information to seniors as they enroll in the new benefit.

My bill also includes other measures to provide seniors with better information about the new drug benefit. Specifically, it would require drug plans to provide seniors with detailed information about what drugs will be covered—before the seniors signs up. It also would require that plans inform seniors of any changes to these covered drugs—either through the telephone, by mail or on the Internet.

My legislation would also take other steps to protect seniors by repealing the premium support demonstration project that is set to begin in 2010. Although seniors will be able to choose whether they want to enter private plans under this demonstration, I believe it is a step in the wrong direction toward privatizing the program and could drive up premiums for those in fee-for-service. Given this, my bill will repeal this privatization demonstration.

Finally, my bill includes additional measures that will help reduce spending and protect the financial integrity of the Medicare program.

In particular, the legislation will include measures to expand the chronic care management demonstration project in the Medicare law.

Today, roughly 5 percent of seniors account for about 50 percent of the entire Medicare budget. The Medicare law will test providing coordinated care to these beneficiaries, which many believe will help improve quality of care and reduce costs. My legislation will build on this effort by providing additional resources to expand chronic care management to more areas of the country. I believe this will save money for Medicare and improve health outcomes for these seniors.

Finally, my new legislation will eliminate provisions in the Medicare law that provide unfair, extra payments to private plans. Specifically, it will repeal a new $8.9 billion taxpayer subsidy to bring more private plans into the market. It will also address inequities that currently allow HMOs to receive significantly higher payments than traditional Medicare—for serving the exact same patient. These policies are simply a waste of money.

According to unofficial estimates by the Congressional Budget Office, eliminating these private plan overpayments could result in significant cost savings. Under my plan, these cost savings would be used to reduce the Federal budget deficit, which has reached record levels this year.

This is a basic overview of the provisions that will be included in my new legislation—the Medicare Prescription Drug Improvement Act (the MEND Act).

I believe this legislation will take significant steps toward improving the new Medicare law. I would like to thank Senator LINCOLN for joining me in this effort and I look forward to working with my colleagues on this important legislation.

By Mrs. BOXER:

S. 2344. A bill to permit States to require insurance companies to disclosure insurance information; to the Committee on the Judiciary.

Mrs. BOXER. Mr. President, today I am introducing the Armenian Victims Insurance Fairness Act. This bill is the Senate companion to legislation introduced by Congressman ADAM SCHIFF, my good friend and colleague from the 29th District of California.

This legislation authorizes states to enact laws that require insurance companies to disclose and make public information about any policy issued in areas controlled by the Ottoman Empire between 1875 and 1923.

This week marks the 89th anniversary of the Armenian Genocide. Between 1915 and 1923, the Ottoman Empire conducted the first Genocide of the 20th Century, killing an estimated 1.5 million Armenians and displacing thousands more. The campaign was so devastating that at the beginning of World War I, there were 2.1 million Armenians living in the Ottoman Empire. Following the Genocide, fewer than 100,000 Armenians remained.

This legislation is important because survivors and descendants of the Armenian Genocide are still trying to recoup the benefits owed to them under the tens of thousands of insurance policies that were issued prior to the Genocide. According to a news report, one Californian has been attempting to collect on an insurance policy for 40 years, but has been stonewalled by the company that issued the policy.

Insurance policy documents were often destroyed during the Genocide, and death certificates were not issued to those Armenians who lost their lives. Therefore, survivors and descendants can only rely on the documents held by insurance companies as proof that they are owed benefits. Unfortunately, we have seen little cooperation from insurance companies on disclosing these documents and opening up their records.

This bill closely follows legislation that would help Jewish Holocaust survivors. Last year, the Supreme Court ruled that a California state law requiring the disclosure of insurance information related to Holocaust-era policies was unconstitutional—in part because of the Federal Government's responsibility to make foreign policy. I support pending legislation to allow States to pass laws requiring the disclosure of Holocaust-era policies.

My bill is designed to ensure that state laws to force insurance companies to disclose insurance information on policies related to the Armenian Genocide do not run into similar legal challenges.

It is an injustice to the memories of those slain during the Armenian Genocide that insurance companies have not paid the benefits owed to the survivors and victims of this tragic chapter of history. This legislation will help survivors and their families pursue these claims.

I urge my colleagues to support the Armenian Victims Insurance Fairness Act.

By Mr. DODD:

S. 2345. A bill to improve the No Child Left Behind Act of 2001, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I come to the floor of the Senate today to introduce legislation, ''The No Child Left Behind Reform Act.'' This legislation makes three basic changes to the No Child Left Behind Act which was signed into law in January of 2002.

The No Child Left Behind Act received the support of this Senator and 86 of our colleagues. Like most, if not all, of our colleagues who supported this bill, I supported it because I care about improving the quality of education in America for all of our children. I believed that this law would help to achieve that goal by establishing more rigorous standards for measuring student achievement, by helping teachers do a better job of instructing students, and last but not least, by providing the resources desperately needed by our schools for even the most basic necessities to help put the reforms we passed into place.

Regrettably, the high hopes that I and many others had for this law have not been realized. The law is being implemented by the Administration in a manner that is inflexible, unreasonable and unhelpful to students. Furthermore, the law is not only failing to help teachers do their best in the classroom, it reflects, along with other Administration policies and pronouncements, a neglect and even hostility towards members of the teaching profession.

Worse still, the Administration's promise of sufficient resources to implement No Child Left Behind's much needed reforms is a promise that has yet to be kept. Indeed, the current budget proposed by the Bush Administration underfunds No Child Left Behind by $9.4 billion. Since passage slightly over 2 years ago, the law has been funded at a level that is more than $26 billion below what was promised when the President signed the Act into law.

As a result of the failures of the current Administration to fulfill its commitment to our nation's school children under this law, those children and their teachers are today shouldering new and noteworthy hardships. Throughout the State of Connecticut, for example, students, teachers, administrators and parents are struggling to implement requirements that are often confusing, inflexible and unrealistic. And they are struggling to do so without the additional resources they were promised to put them into place.

As I have said on numerous occasions in the past, resources without reforms are a waste of money. By the same token, reforms without resources are a false promise—a false promise that has left students and their teachers grappling with new burdens and little help to bear them.

The legislation I am introducing today proposed to make three changes to the No Child Left Behind Act. These changes will ease current burdens on our students, our teachers and our administrators without dismantling the fundamental underpinnings of the law.

First, the No Child Left Behind Reform Act will allow schools to be given credit for performing well on measures other than test scores when calculating student achievement. Test scores are an important measure of student knowledge. However, they are not the only measure. There are others as well. These include dropout rates, the number of students who participate in advanced placement courses, and measures of individual student improvement over time. Unfortunately, current law does not allow schools to use these additional measures in a constructive manner. Additional measures can only be used as a measure of how a school is failing, not how a school is succeeding. This legislation will allow schools to earn credit for succeeding.

Second, the No Child Left Behind Reform Act will allow schools to target school choice and supplemental services to the students that actually demonstrate a need for them. As the current law is being implemented by the Administration, if a school is in need of improvement it is expected to offer school choice and supplemental services to all students—even if not all students have demonstrated a need for them. That strikes me as a wasteful and imprecise way to help a school improve student performance. For that reason, this legislation will allow schools to target resources to the students that actually demonstrate that they need them. Clearly, this is the most efficient way to maximize their effect.

Finally, the No Child Left Behind Reform Act introduces a greater degree of reasonableness to the teacher certification process. As it is being implemented, the law requires teachers to be ''highly qualified'' to teach every subject that they teach. Certainly none of us disagree with this policy as a matter of principle. But as a matter of practice, it is causing confusion and hardship for teachers, particularly secondary teachers and teachers in small school districts. For example, as the law is being implemented by the Administration, a high school science teacher could be required to hold degrees in biology, physics and chemistry to be considered highly qualified. In small schools where there may be only one 7th or 8th grade teacher teaching all subjects, these teachers could similarly be required to hold degrees in every subject area.

Such requirements are unreasonable at a time when teachers are increasingly hard to find. The legislation I introduce today will allow States to create a single assessment to cover multiple subjects for middle grade level teachers and allow states to issue a broad certification for science and social studies.

In my view, these changes will provide significant assistance to schools in Connecticut and other states currently struggling to comply with the No Child Left Behind law. I would hope that our colleagues would look with some favor on it.

Of equal if not greater importance is the urgent need to provide our schools with the additional resources they need to help our children learn. Obviously, funding this law is beyond the scope of this bill. I would note, however, that efforts to increase education funding to authorized levels have thus far been unsuccessful.

Earlier this year, I supported Senator MURRAY's amendment to fully fund No Child Left Behind by increasing the budget allocation by $8.6 billion. Unfortunately, Senator MURRAY's amendment was defeated purely on party lines. Clearly, funding for No Child Left Behind is not at the top of the Majority's priority list. I will continue to work to change this outcome. Clearly, our children deserve the resources needed to make their dreams for a better education a reality.

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. 2345

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 ''No Child Left Behind Reform Act''.

SEC. 2. ADEQUATE YEARLY PROGRESS.

(a) DEFINITION OF ADEQUATE YEARLY PROGRESS.—Section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)) is amended—

(1) in subparagraph (C)(vii)—

(A) by striking ''such as'';

(B) by inserting ''such as measures of individual or cohort growth over time based on the academic assessments implemented in accordance with paragraph (3),'' after ''described in clause (v),''; and

(C) by striking ''attendance rates,''; and

(2) in subparagraph (D)—

(A) by striking clause (ii);

(B) by striking ''the State'' and all that follows through ''ensure'' and inserting ''the State shall ensure''; and

(C) by striking ''; and'' and inserting a period.

(b) ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.—Section 1116(a)(1)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(a)(1)(B)) is amended by striking '', except that'' and all that follows through ''action or restructuring''.

SEC. 3. GRANTS FOR INCREASING DATA CAPACITY FOR PURPOSES OF AYP.

Part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

''SEC. 1120C. GRANTS FOR INCREASING DATA CAPACITY FOR PURPOSES OF AYP.

''(a) GRANT AUTHORITY.—The Secretary may award grants, on a competitive basis, to

State educational agencies to enable the State educational agencies to develop or increase the capacity of data systems for accountability purposes and award subgrants to increase the capacity of local educational agencies to upgrade, create, or manage information databases for the purpose of measuring adequate yearly progress.

''(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to State educational agencies that have created, or are in the process of creating, a growth model or proficiency index as part of their adequate yearly progress determination.

''(c) STATE USE OF FUNDS.—Each State that receives a grant under this section shall use—

''(1) not more than 20 percent of the grant funds for the purpose of increasing the capacity of, or creating, State databases to collect information related to adequate yearly progress; and

''(2) not less than 80 percent of the grant funds to award subgrants to local educational agencies within the State to enable the local educational agencies to carry out the authorized activities described in subsection (d).

''(d) AUTHORIZED ACTIVITIES.—Each local educational agency that receives a subgrant under this section shall use the subgrant funds to increase the capacity of the local educational agencies to upgrade databases or create unique student identifiers for the purpose of measuring adequate yearly progress, by—

''(1) purchasing database software or hardware;

''(2) hiring additional staff for the purpose of managing such data;

''(3) providing professional development or additional training for such staff; and

''(4) providing professional development or training for principals and teachers on how to effectively use such data to implement instructional strategies to improve student achievement.

''(e) STATE APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(f) LEA APPLICATION.—Each local educational agency desiring a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Each such application shall include, at a minimum, a demonstration of the local educational agency's ability to put such a database in place.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $80,000,000 for each of fiscal years 2005, 2006, and 2007.''

SEC. 4. TARGETING TRANSFER OPTIONS AND SUPPLEMENTAL SERVICES.

(a) TARGETING TRANSFER OPTIONS AND SUPPLEMENTAL SERVICES.—Section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316) is amended—

(1) in paragraphs (1)(E)(i), (5)(A), (7)(C)(i), and (8)(A)(i) of subsection (b), by striking the term ''all students enrolled in the school'' each place such term appears and inserting ''all students enrolled in the school, who are members of a group described in section 1111(b)(2)(C)(v) that fails to make adequate yearly progress as defined in the State's plan under section 1111(b)(2),'';

(2) in subsection (b)(1), by adding at the end the following:

''(G) MAINTENANCE OF LEAST RESTRICTIVE ENVIRONMENT.—A student who is eligible to receive services under the Individuals with Disabilities Education Act and who uses the option to transfer under subparagraph (E), paragraph (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii), shall be placed and served in the least restrictive environment appropriate, in accordance with the Individuals with Disabilities Education Act.'';

(3) in clause (vii) of subsection (c)(10)(C), by inserting '', who are members of a group described in section 1111(b)(2)(C)(v) that fails to make adequate yearly progress as defined in the State's plan under section 1111(b)(2),'' after ''Authorizing students''; and

(4) in subparagraph (A) of subsection (e)(12), by inserting '', who is a member of a group described in section 1111(b)(2)(C)(v) that fails to make adequate yearly progress as defined in the State's plan under section 1111(b)(2)'' after ''under section 1113(c)(1)''.

(b) STUDENT ALREADY TRANSFERRED.—A student who transfers to another public school pursuant to section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) before the effective date of this section and the amendments made by this section, may continue enrollment in such public school after the effective date of this section and the amendments made by this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective for each fiscal year for which the amount appropriated to carry out title I of the Elementary and Secondary Education Act of 1965 for the fiscal year, is less than the amount authorized to be appropriated to carry out such title for the fiscal year.

SEC. 5. DEFINITION OF HIGHLY QUALIFIED TEACHERS.

Section 9101(23)(B)(ii) of the Elementary and Secondary Act of 1965 (20 U.S.C. 7801(23)(B)(ii)) is amended—

(1) in subclause (I), by striking ''or'' after the semicolon;

(2) in subclause (II), by striking ''and'' after the semicolon; and

(3) by adding at the end the following:

''(III) in the case of a middle school teacher, passing a State approved middle school generalist exam when the teacher receives the teacher's license to teach middle school in the State;

''(IV) obtaining a State social studies certificate that qualifies the teacher to teach history, geography, economics, and civics in middle or secondary schools, respectively, in the State; or

''(V) obtaining a State science certificate that qualifies the teacher to teach earth science, biology, chemistry, and physics in middle or secondary schools, respectively, in the State; and''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3047. Mr. KYL proposed an amendment to the bill S. 2329, to protect crime victims' rights.

TEXT OF AMENDMENTS

SA 3047. Mr. KYL proposed an amendment to the bill S. 2329, to protect crime victims' rights; as follows:

On page 7, line 24, strike the first period and insert the following: '', subject to appropriation.''.

On page 10, line 20, strike the first period and insert the following: '', subject to appropriation.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 22, 2004, at 9:30 a.m. on the U.S. Commission on Ocean Policy.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 22, 2004, at 9:30 a.m. to hold a hearing on Iraq Transition: Obstacles and Opportunities.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 22, 2004, at 1:30 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 22, 2004, at 2:30 p.m. to hold a Subcommittee on East Asian and Pacific Affairs hearing on U.S.-China Relations: Status of Reforms in China.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 22, 2004, at 4 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 22, 2004, at 11 a.m. in Senate Dirksen Building Room 226.

Agenda

I. Nominations: Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit; William Duane Benton to be United States Circuit Judge for the Eighth Circuit; Robert Bryan Harwell to be United States District of South Carolina; George P. Schiavelli to be United States District Judge for the Central District of California; and Curtis V. Gomez to be Judge for the District Court of the Virgin Islands.

II. Legislation: S. 1735. Gang Prevention and Effective Deterrence Act of

2003 [Hatch, Chambliss, Cornyn, Feinstein, Graham, Grassley, Schumer]; S. Res. 310. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers [Campbell, Hatch, Leahy]; H. Con. Res. 328. Recognizing and honoring the United States Armed Forces and supporting the goals and objectives of a National Military Appreciation Month; S. 2270. No Oil Producing and Exporting Cartels (NOPEC) Act of 2004 [DeWine, Durbin, Feingold, Grassley, Kohl, Leahy, Schumer, Specter]; S. 2107. A bill to authorize an annual appropriations of $10,000,000 for mental health courts through fiscal year 2009 [DeWine, Leahy]; S. 2192. Cooperative Research and Technology Enhancement (CREATE) Act of 2004 [Hatch, Feingold, Leahy]; H.R. 1561. United States Patent and Trademark Fee Modernization Act of 2004; S. 1933. Enhancing Federal Obscenity Reporting and Copyright Enforcement (ENFORCE) Act of 2003 [Hatch, Cornyn, Feinstein]; S. 2237. Protecting Intellectual Rights Against Theft and Expropriation (PIRATE) Act of 2004 [Leahy, Hatch]; and S. 1932. Artists' Rights and Theft Prevention (ART) Act of 2003 [Cornyn, Feinstein, Graham, Hatch].

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 22, 2004, at 2:30 p.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to meet for a hearing on Parents Raising Children: The Workplace during the session of the Senate on April 22, 2004, at 10 a.m.

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

SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration and Border Security be authorized to meet conduct a hearing on ''State and Local Authority To Enforce Immigration Law: Evaluating a unified approach for stopping terrorists'' on Thursday, April 22, 2004, at 2:30 p.m. in SD226

Witness List:

Panel I: Professor Kris W. Kobach, Former Counsel to the Attorney General, Professor of Law, University of Missouri-Kansas City School of Law, Kansas City, MO; E.J. Picolo, Regional Director, Florida Department of Law Enforcement, Ft. Myers, FL; Michelle Malkin, Journalist and Author of Invasion, Bethesda, MD; and David A. Harris, Balk Professor of Law and Values, University of Toledo College of Law, Toledo, OH.

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

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent for a legislative fellow, Erik Winchester, to be granted the privilege of the floor throughout today.

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

Mr. KYL. Mr. President, I ask unanimous consent that Tom Stack and Kevin Patrick Wilson be granted the privilege of the floor during the course of debate on S. 2329.

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

INTERNET TAX NONDISCRIMINATION ACT

Mr. FRIST. Mr. President, as I have announced on several occasions, we intend to begin consideration of the Internet tax access legislation next week. To review for a moment, the bill was reported by the Commerce Committee on September 29 of last year and the Finance Committee on October 29. The Senate began consideration of the bill on November 6 of last year.

Since that time, there have been many discussions as to how to best proceed through this issue. I understand Members have been continuing their efforts to find a solution, but it is time to come forward and debate the underlying issue. It would be my hope to begin consideration of the bill on Monday, and Senators could offer their amendments and the Senate could then work its will on the moratorium.

I understand some of my colleagues desire to delay this bill, but I would respectfully say it is now time to start the process and begin the debate.

Having said that, at this point I would have asked consent that at 1 p.m. on Monday, April 26, the Senate proceed to the consideration of Calendar No. 353, S. 150, a bill relating to taxes on Internet access. Given the objections from Members on both sides of the aisle, I will withhold that request.

CLOTURE MOTION

I now move to proceed to the consideration of S. 150. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 353, S. 150, a bill to make permanent a moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

Bill Frist, George Allen, Jon Kyl, Orrin Hatch, James Inhofe, Elizabeth Dole, Larry Craig, John Ensign, Gordon Smith, Mitch McConnell, Norm Coleman, Sam Brownback, Trent Lott, Conrad Burns, James Talent, John Sununu, Mike Crapo.

Mr. FRIST. I now ask consent that the mandatory quorum under rule XXII be waived and the vote occur on the motion to invoke cloture at 5:30 p.m. on Monday, April 26.

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

MEASURE PLACED ON THE CALENDAR—H.R. 2844

Mr. FRIST. I understand H.R. 2844 is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative read as follows:

A bill (H.R. 2844) to require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.

Mr. FRIST. I now ask for its second reading and, in order to place the bill on the calendar under the provisions of rule XIV, object to further proceeding on this matter.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR MONDAY, APRIL 26, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today it adjourn until 1 p.m. on Monday, April 26. I further ask that, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and following the time for the two leaders the Senate begin a period of morning business until 2 p.m. with Senators permitted to speak for up to 10 minutes each; provided that at 2 p.m. the Senate resume consideration of the motion to proceed to Calendar No. 353, S. 150, the Internet tax bill, and at 5:30 p.m. the Senate proceed to the cloture vote on the motion to proceed, as provided under the previous order.

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

PROGRAM

Mr. FRIST. On Monday at 2 p.m. the Senate will resume consideration of the motion to proceed to the Internet tax bill. This is a piece of legislation that was on the floor for debate only last November. However, minutes ago I was forced to file cloture in order to bring the bill back for consideration.

The cloture vote on the motion to proceed will occur at 5:30 p.m. on Monday, and that will be the next rollcall

vote. It is my hope cloture will be invoked and we can move forward with debate on the bill.

ORDER FOR ADJOURNMENT

Mr. FRIST. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order, following the remarks of Senator DAYTON.

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

The Senator from Minnesota.

Mr. DAYTON. Mr. President, I ask unanimous consent that I be granted the time necessary to make my full remarks.

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

IRAQ

Mr. DAYTON. Mr. President, thank you for your indulgence this evening. I, for the last couple of nights, have been reading through much of Bob Woodward's new book, ''Plan Of Attack.'' It provides, believe me, quite an exceptional insight into the timetable and the process by which President Bush, Vice President CHENEY, and their top advisers secretly planned and then engineered our country and the world into the Iraq war.

It is remarkable that virtually every top administration official from the President on down provided so much information to Mr. Woodward, information that they withheld from Congress and from the American people.

For example, in the fall of 2002, I sat through several hours of top secret briefings with the Director of the Central Intelligence Agency and he never told us it was a ''slam-dunk'' that Saddam Hussein had weapons of mass destruction, as he reportedly said to the President. I guess I am glad he didn't, because he was wrong.

I voted against the Iraq resolution that fall because I was not persuaded that Saddam Hussein had or was close to acquiring weapons that threatened the national security of the United States. So I guess I am fortunate that I wasn't slam-dunked.

I wasn't, either, at the September 26, 2002, meeting which President Bush reportedly, according to Mr. Woodward, had with 18 Members of the House of Representatives. In the book, the President is quoted as saying—Mr. Woodward says initially:

> Putting the most dire spin on the intelligence he, the President, said ''It is clear he, Saddam Hussein, has weapons of mass destruction, anthrax, VX. He still needs plutonium. The timeframe would be 6 months for Iraq having a nuclear weapon if they could obtain sufficient plutonium or enriched uranium.

That was a significantly shorter timetable than anything that was represented to me in any of the briefings that I attended, even under those circumstances of procuring from the outside, weapons materials.

Then the President went to the Rose Garden and said to the assembled press corps, and therefore to the Nation and the world:

> The Iraqi regime possesses biological and chemical weapons, and, according to the British government, the Iraqi regime could launch a biological or chemical attack in as little as 45 minutes after the order was given.

That is an alarming statement, coming from a President of the United States, a statement likely to frighten a great many Americans and also pressure a great many Members of Congress that Iraq was, right then and there, an urgent and immediate threat to our national security.

Mr. Woodward goes on to say that the CIA Director and others had warned the British not to make that allegation, which was based on a questionable source and almost certainly referred to battlefield weapons, not ones that Iraq could launch even at neighboring countries, let alone American cities. He quotes the Director of the CIA as referring privately to this as:

> . . . they-can-attack-in-45-minutes shit.

I know one of my Senate colleagues who has said that he based his vote in support of the war resolution on that stated threat, and the peril, if true, in which it would have placed coastal cities in his State—if true. Of course it was true if the President, the President of the United States, said so to the American people from the White House, with Members of the House of Representatives, Democrats and Republicans, standing right behind him.

They presumably also believed in the President, that he was speaking the truth—a truth that perhaps only he could know. And surely, certainly, if he happened to misspeak, someone in the administration who knew otherwise, especially the person in charge of our national intelligence agency, would make sure the necessary correction would be issued quickly so as not to mislead anyone or everyone. But that wasn't done.

That is just one example of the misuse of prewar intelligence by the Bush administration. But in that instance the President himself and the commission the President appointed to look into the intelligence failures, if there were, or successes leading up to and through the Iraqi war, that commission will not be looking into that use or misuse of intelligence information by the administration officials because the President's directive does not permit them to do so.

If anybody in this body needs sufficient cause to insist upon, as members of my caucus have for many months now, a truly independent commission, one with full authority to investigate whatever its members determine warrants their investigation so that we all can know the truth and the full truth about who had what information and who used what information truthfully or untruthfully and, therefore, led us into that war, if they need sufficient cause, this book certainly provides it.

It is clear to me, however—I say this very reluctantly—that the administration won't provide us with the truth themselves—perhaps only part of it through Mr. Woodward. I regret to say I am convinced that my colleagues on the other side of the aisle won't require the administration to do so. Instead, it is hunkered down, admitting no mistakes, acknowledging no difficulty, keeps spinning the party line about how well everything is going in Iraq, how much better and safer the Iraqi people are, we are, and the world is as a result of this war.

That is what we have been told repeatedly and emphatically in every Senate Armed Services Committee meeting I have attended and in every secret and top secret briefing I received. And in the now dwindling number of real opportunities to question the administration's decisions about what is going on in Iraq, we get instead the party line about what they want us to know—what they won't tell us because they don't want us to know. What they tell us is usually contradicted as a result of some good investigative journalism. And I thank the Lord for a free and vigilant press in this country. It is just an absolute requirement for successful democracy.

Increasingly now what we are finding out is the hard realities—the ugly truths about what really is happening or not happening in Iraq—grab the headlines and seize our attention and sear our consciences as more and more Americans are dying there, as more and more are wounded, injured, and maimed for life.

I have been to the hospitals here. I think most of my colleagues have as well. I have seen lives that have changed forever. And, of course, I have gone to services for those whose lives were ended forever, and those families have to struggle and go on.

It is incredible to watch what is going on in Iraq now and see that more and more of our incredibly courageous men and women serving over there are being murdered by the people they saved—the people that the administration with certainty said would support our troops as liberators and not attack them as enemies.

What do our incredibly brave American troops over in Iraq need to be able to do the enormous task that was assigned to them? We keep asking that question in Congress. We certainly asked it in the Armed Services Committee. We wanted to provide it.

This Congress and the Congress previous to this one—in which I also served—provided the administration with every single dollar it requested for the operation in Iraq, whether it was a regular appropriation, a supplemental appropriation, or emergency

supplemental appropriation. I personally voted for every dollar the President said is needed for military supplies and equipment for the Iraqi security force training, for economic development in that country, and for social rehabilitation.

My colleague, Senator COLEMAN, and I added funding that had been overlooked to help pay for those American heroes who are serving over there to travel home to see their families during their 2-week leave in the middle of what has become a 12-month or 18-month or indefinitely extended tours of duty.

Senator BOB GRAHAM saw to it that the wounded soldiers wouldn't have to pay for their own hospital meals during their recuperations. Senator LINDSEY GRAHAM and Senator TOM DASCHLE tried to extend the health care coverage that is provided to reservists and National Guard men and women and their families to make it year round, since their service in certainly incredibly increasing numbers of cases have become year round, and subject to that at a moment's notice. I was a proud cosponsor of that legislation. It was opposed by the administration. Despite that opposition, last year we were partially successful, and we are going to be trying to accomplish the rest this year.

Most of my caucus and quite a number of my Republican colleagues have also voted several times to restore the funding cuts that the administration proposed for the VA health system which is even now seriously overloaded.

When with no forewarning and apparently with very little foreknowledge, heavy fighting escalated from where it was before in Iraq and erupted where it was not before; when American forces are suffering their highest casualties in the years since President Bush flew onto the aircraft carrier *Abraham Lincoln* and proclaimed ''mission accomplished;'' when 20,000 of our troops, our constituents, the families in our States were told they were literally packing up and heading for home, and then told they must stay for an indefinitely extended period; then we in the Senate Armed Services Committee meeting this week are told by the Deputy Secretary of Defense that ''the increase in violence was not entirely unexpected;'' it is hard to reconcile what has occurred.

Just 3 weeks earlier—just hours, in fact, before the four American contractors were ambushed and massacred and then part of hell broke loose over there—those expectations were not mentioned in a briefing we attended. They weren't even suggested. When I made that point—I didn't ask in that briefing about Fallujah—well, what about it now? ''Unsettled,'' I was told this week but U.S. forces will soon secure the city.

The next morning they published a report that a:

> Senior American officer in Fallujah was quoted as saying ''We have the potential to turn it into the Alamo, if we get it wrong.''

The Alamo? That was pretty unsettling, as I recall from my history books, and it kept getting worse thereafter.

Again at a hearing, I queried that there have been reports that Iraqi forces which we have been paying $1 billion through supplemental appropriations to supposedly train and equip so they can fight and protect their own country and our men and women can come home, there were reports some of them in the last couple of weeks—many of them—would not fight, that they ran away and even left our guns and equipment to be used by the insurgents to try to kill our own forces. How many did so? In other words, how effective has our training been? Didn't know. Estimated maybe 5 to 10 percent.

That very night I read in an article I overlooked in a morning paper, that same day an American general who was in Iraq put the percentage of Iraqi forces who failed to fight at 40 percent; 40 percent of our supposed allies were not allies when needed and 40 percent of our equipment is being used against our own troops.

The question I most want to be answered is, What is your current timetable for bringing our troops home? They are showing a big chart at the hearing for the timetable of the transfer of political responsibilities and government authority. It is quite detailed. It went through 2004, 2005, and into 2006. What, then, I asked, is the timetable for the transition of military responsibility to the Iraqis? No answer, not even in the closed session following. What is the United States force level now projected in 6 months, in 12 months in Iraq? No answer.

Surely these projections are being made. Nobody likes to predict in public what the uncertain future might hold, but we have a right to know. More importantly, the American people have a right to know. These are their sons and daughters over there on the orders of their Commander in Chief and they deserve to be told the truth. We are not even being told how much money the war in Iraq and the war in Afghanistan is expected to cost in the next fiscal year, which starts in 5 months.

We cannot even find out when the $87 billion we appropriated last October will run out. That is ridiculous. After all, whose money is it? Whose Government is it? It is our Government, all of us here and all of the American people, we are all in this together for better or for worse. We will pay for it or avoid paying for it together. We will benefit from an improved world or suffer from the reported unprecedented Arab hatred toward America. We will do that together. Our lives and our children's lives, our beloved Nation's future, will all be affected for many years profoundly by what is being done in our names and by the results and consequences that have occurred.

Please, tell the truth, Mr. President, the real truth, the whole truth, and we will face it together.

I yield the floor.

ADJOURNMENT UNTIL MONDAY, APRIL 26, 2004, AT 1 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until Monday, April 26, 2004, at 1 p.m.

Thereupon, the Senate, at 7:04 p.m., adjourned until Monday, April 26, 2004, at 1 p.m.